

P R E F A C E

The public are doubtless aware of the happenings at Chirala on 14-2-38. Chirala Perala are two contiguous villages in the Guntur Dt. (Andhra desa) which became wellknown in the C. D. Movement of 1921-for the exodus the people thereof had organized as a protest against the municipality that was forced on them during the days of the Panagal ministry. At Chirala, the I L.T.D. Co. Ltd. (Imperial Leaf Tobacco Development Company Limited) which is a worldwide organization and influentially supported by highplaced politician-financiers have a factory which engages some thousands of workers.

There was a labour strike in February last, a sequel of which was the Shooting Incident on the fourteenth Feb. The Madras Government at first intended to send their Labour Commissioner Mr. H. V. Rutherford I. C. S. to enquire into the affair but in view of the widespread feeling against the appointment of one who had been on the spot a couple of days before the tragic events, a Judge of the High Court of Madras, the Hon'ble Justice Horwill, I.C.S. was appointed to conduct the enquiry which proved to be not a judicial enquiry but a summary enquiry by a Judicial Officer. There was deep disappointment at the inadequacy and one-sidedness

of the enquiry and it was hoped that there would be a last chance since the Government had still to pass their final orders. But the G.O. published virtually endorsed the findings of Justice Horwill's report and caused disappointment and distress over the Andhradesa. A legal examination of the Report and the G.O. which is embodied in these pages and a copy of which was previously submitted to the President Parliamentary Board, is now published for the information of the public in accordance with a resolution passed by ,

The Working Committee
of the
Andhra Provincial Congress Committee.

MEMORANDUM

ON THE CHIRALA FIRING INCIDENT.

The Indian Leaf Tobacco Development Company is a Company incorporated in England and operating mostly in Guntur District, which is a large production centre for tobacco. The Company has a Factory at Chirala where tobacco leaf is cured for exportation. The Factory employs about five thousand labourers, who are given work in the season i. e., from January to August. March is the month when they do the largest business and the present trouble occurred on 14th February.

The Factory was started in 1923, but it had no Labour Union. In October 1937 a Labour Union was formed and it was registered on 11—1—1938. The Company was not prepared to recognise the Union and would not pay any attention to the demands put forward by the Labour Union on behalf of the workers.

On the 8th. February 1938, the management dismissed two employees. This resulted in a demonstration of stoppage of work by the employees within the Factory and counter-measures by the management which developed the situation for the 14th. February 1938, the day of the firing incident. The view to be taken of the events from 8th to 13th (both days inclusive) is one of the matters in controversy. The Labourers claim that there was a lock-out from the 9th. and the Company alleges that there was a strike; whichever was the true view of the situation, admittedly, there was no untoward incident of any kind between 8th to 13th. and the atmosphere was absolutely peaceful. The police were on the scene from the 9th and the Reserve police were brought in from the 10th.

On the 13th evening the Minister for Labour arrived, but was unable to get the management to agree to the terms for a settlement and left that night.

The Official version of the happenings of the 14th. is as follows:—

After the failure of the Minister to effect a settlement, most of the labourers felt disappointed and decided to return to work. On the morning of 14th. a few hundred returned to work, but there was vigorous and forcible picketing. In the afternoon at 1-30 P. M. about three or four thousand labourers gathered at the factory gates. Half of them were for going in and the other half for keeping out. The persons who were for keeping out were forcibly preventing the other group from going in. A woman cooly who wanted to go in was molested. The police Inspector, the two Sub Inspectors and 15 ordinary police arrived on the scene and were trying to control the crowd. There was stone-throwing at the police. A group of labourers threatened to break open the closed factory gates and to destroy the property inside. The Police Inspector ordered a lathi charge and pushed back the crowd and cleared the front of the factory to some distance. He had sent for the Sub-Collector and the Dy. S. P. and the Reserve Police who arrived on the spot. The crowd was again advancing on the police. 40% of the crowd were females and 60% males. About fifty per cent of the crowd had sticks, chisels, knives and other missiles in their hands. They were throwing stones at the rate of 50 to 60 per minute. The Sub-Collector ordered three successive lathi charges. At each lathi charge the crowd was retreating to some distance and when the police fell back was advancing aggressively on them. Again throwing stones etc, one person was found just behind the Joint Magistrate with a chisel in hand and the same was wrested from him. The police were moving up and down, controlling the crowd. As a result of the successive lathi charges the crowd had been pushed away to a distance of about a furlong from the factory gates. One portion of the crowd gathered towards the railway line and a section of the police proceeded there and charged them. The Circle Inspector who came on the spot felt that the Police were in danger of being overwhelmed. He accordingly opened fire and fired three shots. One person fell down and immediately picked himself up and ran away. A few minutes there-

after, the Joint Magistrate arrived on the spot, found the situation dangerous. He found that a section of the crowd was going round to the rear of the police and attempted to out-flank. Fearing that himself and the police would be surrounded and out-flanked and fearing also that the crowd might proceed to the bungalows of the employers and to the factory and destroy life and property, he gave an order to fire after the usual warning. Two persons fell down dead. As a result of the first firing, two received injuries of which one died a few days later in the hospital. Thus, in all, three persons died as a result of the shootings.

To test the correctness or otherwise of this official version the following points have to be considered in detail

- (1) What was the situation on the fore-noon of the 14th? Was there forcible pecketing?
- (2) What was the nature of the crowd in the afternoon? Was it armed with sticks, knives and chisels?
- (3) Were there two hostile groups at the factory gates in the afternoon?
- (4) What were the movements of the mob in the afternoon?
- (5) What were the distances from the factory gates at which the respective lathi charges were delivered and the two firings respectively took place?
- (6) Was the mob in the afternoon aggressive? What were the various acts of aggression committed by the mob? What is the correct view as regards the acts of stone throwing, advancing on the police and out-flanking movements attributed to the mob?
- (7) The circumstances relating to each of the two firings and the justification for each firing.
- (8) The nature of the wounds received at the firings & conclusions therefrom.

FORENOON OF THE 14th. FEBRUARY.

WAS THERE FORCIBLE PICKETING ?

The finding in the Horwill Report is as follows:-

"The Circle Inspector, the Sub Inspectors of Chirala and Tungutur were on duty at the factory from the early morning. They had anticipated trouble because of the discontent existing among the workers after the Honourable Mr. Giri left on the evening of the 13th. On the 14th. morning the Joint Magistrate and the Dy. Superintendent of Police had seen that forcible picketing was going on and they feared that things would worsen as the day went on."

The evidence relating to this is as follows:-

The First Information Report submitted by the Joint Magistrate Mr. Carleston after the firing states thus:

"That morning (14th) I watched the streets in the vicinity of the factory about the time the coolies were expected to go to work. A number of coolies were going to the factory, but were being dissuaded by the so-called peaceful picketing. I had to prevent some people being physically obstructed and I also took away four sticks (two of them deadly weapons) from people present near the factory. However in spite of picketing, I anticipated no serious trouble. Some 50 coolies went in to work."

The Joint Magistrate in his evidence before the Hon'ble Mr. Justice Horwill says: "On the 14th morning at 6 A. M. I saw intensive picketing and saw one man using physical force. Thousands were then present. Mr. Yegnanarayana addressed a meeting at about 8-30 A. M. By that time at least 400 to 500 had gone to work. I thought that there was then no further immediate apprehension of trouble and went away with the Dy Superintendent of Police. The Circle Inspector remained on duty. I visited the town to see that all was quite. I was present at noon and nothing untoward occurred then."

The Dy. Superintendent of Police, Mr. P. Sourirajalu Naidu in his evidence says:—

"At 6 A. M. there were thousands near the factory preventing labourers from entering the factory. 40—50 of them were armed with sticks About 1000 were present at 6 A. M. 30 or 40 were picketing. The others were excited and shouted "Don't allow anybody to get into the factory." I went after-wards to maintain order in the town I saw workers armed with sticks preventing others from working. I apprehended danger if we should attempt to disarm the men."

The Circle Inspector Rao Sahib B. L. Narayana Rao says:—

"At about 6 A. M. on the 14th 2000 to 3000 people gathered. Some were picketing using force and lathies. That continued for about an hour. Some coolies went into the factory. The others went to attend a meeting $1\frac{1}{2}$ furlongs away held by Mr. Yegnanarayana. My Sub-Inspector was present, but not I. The meeting lasted until 10-30 A. M. The spirits of the people were raised by this meeting. They seemed excited. They were saying that they would not allow the labourers to enter the factory at 2 P. M."

Mr. Boatfield, the Manager of the factory deposed as follows:—

"On the 14th. I went to the factory at 6-30 A. M. 650 coolies came to work that morning with about 12 "A" and "B" class. There were groups picketing on the road and kept some back I went home at noon. There were then many picketers about and police were patrolling".

The Sub Inspector of Police, Chirala, Mr. J Narayana Murthi deposed as follows:

"At 6 A. M. I, the Circle Inspector and the Joint Magistrate went towards the factory. There was a crowd of 2000 - 3000. Some were preventing others from going to work. 4 sticks were seized".

The evidence above set purports to make out that there was forcible picketing on the morning of the 14th. with sticks etc. The Joint Magistrate and the Sub-Inspector say that four sticks were seized. The Dy. Superintendent of Police says that he saw 30 to 40 with sticks. but did not disarm them as he apprehended danger if he made the attempt. This conflict in the evidence throws very great doubt on the existence of any sticks in the hands of the labourers, at any rate, to any appreciable extent. Mr. Boatfield, the company Manager does not speak to any forcible picketing by use of physical force or the use of sticks for picketing. The picture as drawn by the Joint Magistrate in his evidence is an improvement over that given by him in his First Information Report.

The Joint Magistrate both in his evidence and in the First Information Report is positive that he apprehended no serious trouble. This is sufficient to show that if there was any picketing at all, it could not have been either forcible or intensive, and that the finding of Mr. Justice Horwill in his report that there was forcible picketing on the morning of the 14th. cannot be maintained.

Admittedly, there was a meeting of the labourers at about 8-30 A. M. in the morning about $1\frac{1}{2}$ furlongs away from the factory. The distance at which the meeting was held is some indication that they were anxious to avoid any scope for trouble near the factory gates. Mr. Yegnanarayana, the President of the Labour Union, addressed the meeting and it is in the evidence of one of the company's witnesses, T. Jwalapathy, that the President advised them at the meeting not to go to the factory.

The Circle Inspector says that people were saying at the meeting that they would not allow the labourers to enter the factory, but the witness Jwalapathy, who attended the meeting does not say a word about these threats. On the other hand he says "We decided to follow his (President's) advice" i. e., "Not to go to the factory".

If as the Circle Inspector says there were threats from those assembled at the meeting that they would not allow the labourers to enter the factory, it is improbable that the Joint Magistrate would not have been informed about it and it is inconceivable that some effective preventive measures would not have been taken such as an order under Section 144 Criminal Procedure Code or the like.

On the other hand, the joint Magistrate left with the impression that no trouble need be anticipated.

It is clear, therefore, that the situation on the forenoon of the 14th was quite peaceful. The suggestion that 'there was forcible picketing or that the people assembled at the meeting were uttering threats that they would not allow the labourers to enter the factory' is an after-thought. On the other hand, the President advised the labourers "not to go to the factory" apparently meaning not to go near the factory and the labourers had decided to abide by his advice. The meeting terminated at 10-30 A. M. There is no evidence that anything happened between 10-30 A. M. and 1-30 P. M. to change the situation.

AFTER-NOON OF THE 14th FEBRUARY 1938.

NATURE OF THE CROWD.

(a) It is necessary first to have a clear idea as to the nature and composition of the crowd in the afternoon. First Information Report of the Joint Magistrate describes the crowd as "a huge and aggressive mob from which was coming a rain of huge stones".

In his evidence the Joint Magistrate says "Near the factory there were 5 men with sticks of whom we caught 3 and took their sticks. A few men here and there in the body of the crowd had sticks. (This apparently refers to fore-noon). I did not notice sticks in the afternoon".

In his evidence he also spoke to the mob throwing stones at various stages.

The Circle Inspector deposed: "At 1 P. M. there were 4000—5000 present (at the factory gate) while others were coming from the road and the railway line. About 50 Yerukula men and women were abusing those going in filthy language

Stones were thrown from all directions by the mob. About 100 persons rushed to the gate *saying that "they would break it open and beat labourers and destroy property."*

"Saw the Sub Inspector catch a man with a chisel" "I saw some armed with knives" "There were about two men to one woman."

The Circle Inspector also spoke to stone throwing by the mob at various stages.

Mr. Boatfield, the company manager, says: "At about 1-15 P. M. I heard a great noise of an angry crowd outside the factory gate. I heard many stones falling on the factory fence. At 1-55 P. M. I went by car to the factory." He does not say that he saw any of the crowd throwing other missiles at 1-55 P. M. when he went into the factory.

Mr. C. W. Gemmet, one of the Directors of the Company says "At 1-30 P. M. on the 14th I walked to the factory through the crowd coming from east. Heard stones falling on corrugated iron. Seen full bricks, half bricks and Jagged pieces of cuddappah slabs. Many in the crowd around the gate had sticks and branches of trees".

The Village Munsiff of Epuripalem deposed "I saw a crowd of Erukulas running away. I saw 2 with sickles and 5 to 6 with sticks. They ordinarily carry sickles".

The Sub-Inspector of Police spoke about stone-throwing at various stages and he also said that he saw a man with a chisel holding it at his side behind the Joint Magistrate and that he snatched away the chisel, but that the man escaped.

The Dy. Superintendent of Police says:

" 50% of the crowd in the afternoon was armed with sticks. A man was moving among us with a chisel ".

Sergeant Reilly- the police sergeant, who was in charge of the two sections of the reserve police, the lathi section, and the rifle section 15 in each, spoke as follows:-

" The stones were thrown by the crowd at the rate of 50 to 60 a minute. I saw one man with a butcher's knife, at least a dozen with chisels. More than a hundred with sticks in the crowd immediately round us".

" The crowd was picking up stones from the permanent way. Hundreds of stones were falling " "I should say that 3 men in ten had sticks " " I saw no policeman struck with a stick " "I did not tell anybody about the chisels ". " No man told me that they had been hit with sticks. "

Mr. Justice Horwill states in his report that he was impressed with the evidence of Sergeant Reilly and apparently accepts his version about the crowd when he says in the report: " Many of the men being armed with sticks and some even with chisels and knives. " This view is clearly untenable.

The Joint Magistrate himself says that he did not see any sticks in the afternoon.

There is no mention in the First Information Report of the crowd in the afternoon having any sticks or knives. As to the chisel (apart from the fact that the Village Munsiff of Epuripalem says that Yerukulas ordinarily carry sticks) the story given is an improbable one viz., that a man with a chisel came behind the Joint Magistrate, that the chisel was caught, but the man escaped. At any rate nobody except Sergeant Reilly spoke of more than this one chisel

It is very clear therefore that the story about sticks, chisels and knives is a sheer exaggeration. This is also

borne out by the fact that even according to the wound certificate of the police (whose genuineness is challenged on the Labour Union side) all the wounds were only abrasions and contusions and there is not even one injury or hurt, such as would result from the use of chisels or knives or sticks. It is impossible also to imagine that an aggressive crowd, if it had these weapons, as the official version suggests, would have kept them without making use of the same.

WERE THERE TWO HOSTILE GROUPS

AT THE FACTORY GATE ?

The next question requiring consideration is whether in the afternoon at or after 1-15 P. M. there were at the factory gates two groups of labourers with opposite purposes. The report finds that "a number of workers had returned to work on the morning of the 14th and many more were ready to return in the afternoon and many also went there to prevent the others from returning to work.....Three thousand to six thousand men gathered round the factory between 1 P. M. and 2 P. M. While many of the workers were desirous of returning to work, others were determined to prevent them from doing so".

The actual evidence, however, relating to the existence, nature and composition of a group intent on preventing any labourers from going into the factory between 1 P. M. and 2 P. M. is as follows:—In the First Information Report there is no mention of the existence of any such two groups with conflicting purposes or of any conflict between two groups. The First Information Report only speaks of the "existence of a huge aggressive mob at the factory gates from whose stone throwing the Circle Inspector and the party of Police were defending themselves".

The Joint Magistrate in his evidence before the Enquiry Officer says nothing about the existence of conflict between the groups.

The Circle Inspector in his deposition says as follows:

"About 50 Yerukula men and women were abusing those going in filthy language" "A Wodda woman complained that she had been beaten since she wanted to go to the factory" No such Wodda woman has been examined as a witness.

Mr. Boatfield, the company manager, who went into the factory at 1-55 P. M does not speak to the existence of two conflicting groups nor does Mr. Gemmet, a Director of the company. who walked into the factory through the crowd at 1-30 P. M. without any trouble or difficulty.

A clerk of the company, Mr. G Venkateswarulu says as follows:

"Crowds gathered at about 1-30 P. M Just as the bugle was about to sound some sand was thrown..... The crowd that had gathered intended to come to work, but there were picketers trying to prevent them from doing so Thousands of people were around the factory at 1-30 P. M. There was no distrubance at 1-15 ".

Another clerk of the company, Jwalapathi, says as follows :—

"There was a whistle at 1-30. About 4000 men flocked to the gate to return to work About 4 to 5 male coolies stood on the branch-siding and with a big bamboo struck to the ground to terrify the men They then threw sand to drive me back fifteen to sixteen times. A half were willing to work and a half were against it". This witness's evidence is self-contradictory since he says at first that 4000 men flocked to return back to work and later on says that half were willing to work and half against it Even he does not say that the half that was against indulged in any positive acts of prevention. All that he says is 4 to 5 male coolies were striking a bamboo stick on the ground at the branch-siding (which admittedly is at some distance from the factory

gate) and that they threw sand. This story of striking bamboo on the ground to terrify is puerile.

The Sub-Inspector of Police, J. Narayanamurthy says: "I went near the factory at 1-15. I noticed a crowd of 4000 to 5000 persons in front of the factory. Some were obstructing and abusing.....A woman complained of being beaten and showed broken bangles.....A band of Yerukalas, women mostly, were abusing those who were going and said that they had no union as the Yerukalas had. Those who did not want to go threw sand on those who did. Later, stones were thrown".

Neither the Dy Superintendent of Police nor Sergeant Reilly speak to the existence of conflict between two hostile groups.

Of the two women witnesses examined for the Union, one by name Sowbhagyam stated: "Nobody obstructed people going into the factory on the 14th February." Another by name Anjamma during the cross examination stated (in answer to a leading question) that "at 3 P. M. several people gathered at the gates of the factory and obstructed those that were prepared to enter the factory for works".

The above is all the evidence on the question whether or not there were two hostile groups at the factory gates between 1-15 and 2 P. M. The evidence is far too insufficient to establish the existence of two such hostile groups or of any conflict therefrom. All that appears of the evidence is fully believed at its face value is that a few Yerukulas (women) were abusing or throwing sand and that a few men were beating the ground with sticks; and that this kind of molestation was at some distance from the factory gates. The official evidence as given makes it clear that the entire crowd that gathered at the factory gates had all come there to go in for work. One of the company's witnesses, G. Venkateswarulu, says: "They (the labourers) said that he (the Head Clerk) who was the Vice-President of the Union had represented to them that the Union and the factory came to an agreement and that all could return

to work that afternoon. The crowd that had gathered intended to come to work".

One of the witnesses examined for the Union namely Anjamma deposed that "One Iyer (meaning the Head Clerk) wanted them to go to the factory on the ground that a compromise had been effected." This was corroborated by the evidence of the other witnesses for the Union namely Sowbhagyam, Joseph and Seshayya all of them labourers and one Mr. Williams, an ex-Municipal Councillor of Chirala. This was in a sense also admitted by the said Head Clerk Ramakrishna Ayyar himself in his evidence when he said that on the 14th at 3-30 P. M. he heard a wild cry that he was responsible for the firing and also in his evidence as reported in the Hindu that he advised the workers that afternoon to resume work. In this connection it is significant to note that the Dy. Superintendent of Police in his evidence states that "the Joint Magistrate and himself while patrolling the town between 1 and 2 P. M. saw a crowd in front of the Head Clerk's house, the Head Clerk was doing Namaskarams to them and asking them to go away. the Joint Magistrate asked him if he was in trouble and he replied that he was not". In the Head Clerk's evidence as reported in the Hindu, it appears that "the company served him with a registered notice that he would be dismissed if he did not report himself for duty before Monday" the 14th February. He appears to have gone to the factory at 11 A. M. and returned at 12 noon.

From the above summary of the evidence, it is clear that the crowd that gathered at the factory gates in the afternoon were all of them lured to go there by the false report sedulously circulated by the Head Clerk, who was the Vice-President of the Union and that there was no separate group (or at any rate any appreciable magnitude) with a conflicting purpose. If this view of the situation is correct the substantial basis for the report of Mr. Justice Horwill falls to the ground, because in his view the trouble on the 14th afternoon started owing to the conflict between the opposing sections of labourers at the factory gates and that on the intervention of the

police in an attempt to maintain order there as "a consequent change in the object of the crowd's animosity from their fellow workers to the Police". If Justice Horwill's view is correct, when one section of the crowd turned their hostility to the police what became of the other equally numerous section? Did they also coalesce with the hostile group and why should they? Again if there were two equally numerous groups at one spot with conflicting purposes, it is remarkable that no actual conflict occurred between them and no injuries on one section by stone-throwing or other aggressive acts by the other section.

MOVEMENTS OF THE MOB IN THE AFTERNOON.

The movements of the mob in bare outline between 1-30 and 3 P. M. according to the official case is as follows :

There was a huge crowd of about 5 to 6 thousand men at the factory gate at about 1-30 P. M. They were cleared by a lathi charge carried out by the ordinary police and the crowd was pushed back to a distance. The Joint Magistrate and the Reserve came on the scene and they delivered a lathi charge as a result of which one section of the mob went towards Stuartpuram side of the factory and the main section proceeded along the road and was pushed up to Municipal limits. The section of the crowd which went to the Stuartpuram side numbering about a 1000 was attempting to come back to the scene. The Dy. Superintendent of Police finding this went away with a section of the police to control that group and he effectively kept them under check and there was no further trouble from that side. The main section of the crowd which went along the road up to the Perala limits and which was probably about 4 to 5 thousand strong is said to have split into two and the major portion of that group is stated to have crossed over to the main railway line and gathered near the huts to the west of the main railway line, as a result of these successive lathi charges that were delivered by the Reserve Police. There were two firings, one under the Circle Inspector's

orders and another under the Joint Magistrate's orders and both the firings were directed towards the same group, which had gathered near the main.

DISTANCES FROM THE GATE AT WHICH THE LATHI CHARGES WERE DELIEVERED AND THE FIRINGS TOOK PLACE.

The accompanying diagram gives a rough idea of the local situation (It is unfortunate that though the Enquiry Officer made a local inspection no plan is attached to the report and a great deal of the evidence is difficult to follow without a complete understanding of the local situation)

THE FIRST LATHI CHARGE.

This was ordered by the Police Circle Inspector at the factory gate before the arrival of the Reserve, the Sub-Collector and the Dy. Superintendent of Police. He says in his deposition that " he cleared a space of 20 to 30 yards from the gate ".

Mr. Boatfield, the company manager, says in his evidence " at about 1-45 there was a lathi charge which drove the crowd back to 30 to 40 yards. At 1-55 I went by car to factory. There was no crowd within 100 to 150 yards ".

The company Director Mr. Gemmet says as follows:-

" Saw lathi charge at 1-40 P. M. Part of the crowd went east 100 to 150 yards and part west for 300 to 400 yards down road ".

An Engine Driver T. C. De Selver examined as an official witness says that at 1-49 P. M. he saw the mob at 40 to 50 yards from the factory and the police at the factory.

The Sub-Inspector of Chirala deposes that at the first lathi charge " space was cleared for 50 yards ".

It is not clear in the above whether the evidence of Mr. Boatfield and Mr. Gemmet refers to the first lathi charge, or to a later lathi charge. Very probably the evidence of Mr. Boatfield refers to the first lathi charge, and of Mr. Gemmet to the second. If so, the crowd was driven away by the first lathi charge to a distance of about 150 yards. The official witnesses all admit that the space was cleared for about 50 yards and as will be seen later they in giving the distances have been very much trying to minimise the same.

SECOND, THIRD AND FOURTH LATHI CHARGES.

It is not possible to distinguish clearly in the evidence the respective distances to which the crowd was driven as a result for each of these lathi charges, but it clearly establishes that as a result of these three lathi charges the crowd was driven away beyond the Perala toll gate which would appear to be somewhere near two and a half furlongs of the factory.

The evidence is as follows :—

The first information report says " we (Police) had got them (crowd) to a point where the houses of Perala begin.....The mob advanced up to the road and had to be driven back about the same places before..... The mobs on the road had again to be driven back and we got to the place where we had driven it before..... A bigger mob collected on the branch railway line behind some huts".

The Joint Magistrate in his evidence says that the point where the houses of Perala begin as mentioned in his First Information Report was about 100 to 150 yards. But Mr Gemmet, a director of the company who had certainly local knowledge says as follows:- "About 500 yards separated the crowd, I should say that the crowd to the west went about as far as the Municipal boundary or a little further" (This is obviously the same point as that mentioned in the First Information Report, as the point where the houses of Perala begin.) It is thus clear

from Mr. Gemmet's evidence that the mob down the road was driven to a distance of $2\frac{1}{2}$ furlongs at least and right into the Municipal limits.

The other evidence on this question is as follows:-

The Joint Magistrate in his deposition says: "We drove the crowd back three times before firing began. On the first occasion we drove them 50 or 60 yards; on the second occasion 100 yards..... It took at least an hour to drive back the people".

The Circle Inspector in his deposition says:-

"The mob was at about 15 to 20 yards (presumably from the factory gate)..... A lathi charge was then ordered by the Joint Magistrate and the mob dispersed to a distance of 50 to 60 yards..... We stopped where the siding crosses the road..... Another lathi charge was ordered by the joint Magistrate The mob then retreated about 100 yards.....The mob in front of us again advanced with stones and the Joint Magistrate ordered another lathi charge We drove them back 100 yards. Some of them crossed the railway line.....They were driven back towards the huts".

The Sub-Inspector of Police says in his deposition:-

"Lathi charge. Cleared space for 50 yards. Reserve came. Lathi charge. Eight hundred to thousand went east and the remainder west. Drove back west up to Mr. Phillip's house 75 yards...After the Dy. Superintendent of Police left we charged for 120 yards along the road. We stood just on the factory side of the Municipal stone (this is probably the same thing as the Municipal boundary limit spoken to in Mr. Gemmet's evidence and mentioned in the First Information Report").

Sergeant Reilly says: "The Joint Magistrate ordered us to clear the crowd.....We drove them back for about 60 yards... We fell back a few yards and the mob followed. We therefore drove the mob right back beyond

the huts on the right (this is probably a point much nearer to the factory than the Municipal limits)...We drove them about 50 yards beyond the huts".

The Dy. Superintendent of Police says: "Reserve arrived. Lathi-charged. Advanced 70 yards. Crowd rallied and threw stones. Second lathi charge. Drove mob beyond huts on the left of the road. (This again is probably a point much nearer to the factory than the Municipal limits).

If when the Dy. Superintendent of Police, the Sergeant, and Circle Inspector speak of driving the crowd beyond the limits of the huts to the left of the road they are thinking of a point much nearer to the factory than the Municipal toll gate. This evidence is definitely conflicting with the evidence of the First Information Report, Mr. Gemmet and the Sub-Inspector of Police. There can be no doubt that the later is the more reliable version being given in the First Information Report. Hence it would follow that as a result of one or all the lathi charges the crowd was driven away to the other side of the Municipal toll gate, a distance of 500 yads as Mr Gemmet says between at least 2 to 3 furlongs from the factory.

It is also clear that this point is at some distance from the factory because the First Information Report mentiond that the Police retreated near to the factory *by bus*. It may be noted that as a result of these lathi charges, the road was entirely clear because the First Information Report mentions about message having been sent through *passers-by* to the crowd standing beyond the toll gate indicating that the road was clear enough for people to pass to and fro freely.

It is a matter particularly to be noticed in this connection that the story as given in the deposition of the witnesss varies very substantially from that given in the First Information Report. The First Information Report says that as a result of the very first lathi charge the Crowd was driven right up to the Municipal limits and that two more charges were made to keep back the

crowd to that limit. But the evidence depicts the picture as though the crowd could be driven only by successive lathi charges to greater and greater distances and the attempt of the Police witnesses in the evidence is to bring this ultimate point much nearer the factory than the First Information Report mentions. It is clear that his developments are intended to create the impression that the crowd was so determined that it had to be driven by successive stages and to obviate the criticism that there was no need to fire on a crowd which had retired as far away as nearly two to three furlongs and gone to a side on the railway some where near about this distance of two or three furlongs.

The distance above discussed has reference to the main portion of the crowd which was lathi-charged and driven along the road. It is said that as a result of the lathi charges one portion of the crowd went towards the railway line. The evidence does not make it quite clear at what distance this portion of the crowd was as Mr. Gemmet puts it at about 150 yards or "to the end of the factory compound".

DISTANCES AT WHICH THE FIRINGS TOOK PLACE.

There is confusion in the evidence as to the exact position of the crowd at the time of the two firings. The existence of two railway lines, one the main line and the other leading to the factory (branch line) and of three groups of huts, one group on one side of the road, another group between the road and the branch line and a third group farther away and beyond the main line, makes it extremely difficult to understand the evidence as recorded. This confusion is enhanced by witnesses speaking about the directions 'east' 'west' 'north' 'south' in contradictory terms.

One thing appears fairly clear, that is, that the group fired on on both the occasions is the same, namely the portion of the group which is said to have divided itself off from the main crowd and turned towards the railway line near about the Municipal limits. The official evidence proceeds on the footing that both the firings took place more or less near about the same spot.

The place where the crowd was at the time of the second firing is fairly easily fixed. The Sub-Inspector very definitely states in his evidence that the two persons fell down dead at post No. 212/1. It is stated (though it does not appear on the record) that the post 212/1 is about three furlongs from the factory and almost directly to the west of the toll gate. This is corroborated by Commission agent Rangayya examined as an official witness who states that he was sitting to the east of the Perala toll gate and that the people fired on were to the west of him on the railway line near the huts which were to the west of the toll gate.

With reference to the first firing the position is as follows:- The Circle Inspector's evidence indicates that he was with a section of the rifles on the road just before that time. The exact point on the road where he was is not very clearly brought out in the evidence. But his evidence gives the impression that he was at the spot where the branch siding crosses the road. At any rate already by that time the lathi charges against the crowd on the road had been completed and the First Information Report states that the police had withdrawn themselves from the toll gate by a bus and taken up a position near the factory. Consequently the Circle Inspector with his rifles should have been at a point on the road nearer to the factory than to the toll gate. It is part of the official case that the Circle Inspector heard the cry for help from Sergeant and rushed up to him and joined him in a few minutes. It is also stated that the Joint Magistrate ran between the two points to and fro (i. e., between the point where the crowd was and the point where the rifles were expected to be) and went back in a very short time. It, therefore, must have been near enough to the place where the Circle Inspector with the rifle section was standing on the road.

The First Information Report mentions the crowd at the time of the first firing as being on the branch line and the Joint Magistrate in his evidence that the first firing was at a point 'to the right of the railway line north of the huts'.

It would, therefore, appear that the first firing probably took place on a crowd situated on or near to the branch line, at a short distance from the point where the branch line crosses the road. If this is the correct inference from the evidence, this would show that the place of the second firing is at some considerable distance away from the place of first firing and farther away from the factory.

This conclusion would entail the further inference that after the first firing the crowd had retreated to some distance and thereafter, the second firing was resorted to.

If to the report of Justice Horwill a plan had been appended and the record of evidence had left the distinction between the various groups of huts and railway lines clear, it should have been possible to state the above conclusion with absolute confidence.

This much, however, can be asserted with confidence viz., that the Sub-Collector's evidence very clearly indicates the place of first firing and the place of second firing to be somewhere near the branch railway and at a point comparatively near to the factory, while the evidence of the other witnesses make it quite clear that the scene of the first firing and the second firing were near the main railway line and at a point near to the toll gate more than a furlong away. This is a very serious discrepancy which has not been even noticed in the report and which casts grave doubts on the reliability of the entire evidence. It is very significant that the First Information Report does not give any indication of the place of the 2nd firing and when the Joint Magistrate was pressed in his evidence to locate the spot where the two men fell dead as result of the second firing he evades an answer by saying "It is extremely difficult to point out" while every other witness felt no such difficulty.

It would have been useful to know what distance this firing spot was from the bungalows of the company officials, since one reason for firing is stated in the evidence to be the apprehension that the mob might attack

the bungalows. The evidence however does not suggest that the firing was anywhere dangerously near to the bungalows and Mr. Boatfield, the company Manager, has stated in his evidence that "he had no information of any hostile demonstration by the coolies against the bungalows" and that "the coolies did not demonstrate against the officers personally."

AGGRESSIVENESS OF THE MOB.

The official evidence is to the following effect :

'A'—AT THE FACTORY GATE.

(i) A group of hundred Yerukalas are said to have been abusing those that were prepared to go into the factory.

(ii) Some persons were said to have been throwing sand.

(iii) Four or five males are said to have been beating a bamboo stick on the ground to terrify persons from going into the factory.

(iv) One person is said to have come behind the Joint Magistrate with a chisel in hand suggesting that he was about to make an attempt on the life of the Joint Magistrate.

(v) A number of persons in the mob are said to have with them sticks, chisels and knives.

(vi) A group of persons spoken to as about 30 by one witness and 100 by another witness are said to have been crying out that they will go into the factory and loot the property.

'B'—Stones were being thrown at the police at the factory gate and at the subsequent stages of the movements of the crowd.

'C'—The crowd was aggressively advancing on the police at each stage, after each lathi charge, when the police was returning after this charge.

(D)—A portion of the crowd made an out-flanking movement so as to hem in the police and put them in danger of their lives.

'A'—Now with reference to (i) (ii) and (iii) above, the evidence relating thereto has been dealt with already when dealing with the question as to whether there were two groups at the factory gates with conflicting purposes. Even if this evidence be true, it was not by itself as spoken to by official witnesses of any such magnitude as to bring about the later situation. (iv) and (v) have already been dealt with when dealing with the question as to the nature and composition of the crowd. With regard to (vi) the evidence of any aggressive hostility towards the company's officials is as follows:-

The Circle Inspector in his evidence says "About 100 persons rushed to the gate saying that they would break it open, beat labourers and destroy property".

The Sub Inspector of Police in his evidence says "Twenty to thirty rushed at the gate shouting "throw open the gate, destroy property". They rushed against the gate"

No other witness speaks about this nor does the First Information Report give any such indication.

Mr. Boatfield, the Manager of the company, says that he heard many stones falling on the factory fence and that he heard the great noise of an angry crowd outside the factory gate at 1-35 P. M. He, however, came into the factory at 1-55 P. M. without any molestation, which clearly shows that the crowd had no hostility towards him.

Similarly, the Director of the company Mr Gemmet while he says that he heard stones falling on corrugated iron, says also that at 1-30 P. M. he walked to the factory through the crowd apparently without any trouble.

Mr. Boatfield in his evidence says "I had no information of any hostile demonstration by the coolies against the officers personally".

In the light of this evidence the evidence of the Circle Inspector and the Sub-Inspector that some persons wanted to break into the factory and destroy property is wholly imaginary and there was no room at any stage for any apprehension of danger to the company's officials or to the factory.

WITH REGARD TO "B"—STONE THROWING.

The evidence of the Joint Magistrate, the Circle Inspector, the Sub-Inspector of Police and of Sergeant Reilly purports to make out heavy and incessant stone throwing at the police from about 1-30 when the crowd gathered near the factory gates until about 3 O'clock when as a result of the second shooting two persons fell down dead, except of course in the intervals when the mob was under a drive by lathi charges. The evidence is that about fifty to sixty stones per minute were being thrown at the police and some huge stones were produced in court as evidence during the deposition of the Joint Magistrate. The Joint Magistrate also says that at one stage the crowd gave the police a hand-to-hand fighting with the pelting of stones. This story of the official witnesses about the pelting of stones at the police is sought to be corroborated by the evidence of an engine driver - a Mr. De Selver - who says that at about 1-55 P.M. he saw a mob pelting stones towards the factory, and by the evidence of a gangman Papayya, who says that at the time of firing the mob was throwing stones at the police. The company manager Mr. Boatfield says that he heard many stones falling on the factory fence and also says that he found the place in front of the factory gates littered with stones. The company Director Mr. Gemmet says that he saw full bricks, half bricks and jagged pieces of Cuddappah slabs in front of the factory gates. Neither of them say that they actually saw the crowd throwing stones at the police. The District Collector, Mr. Manavedan Raja, says that when he went for inspection after the incident (on the following morning?) he saw a number of large stones as well as small stones scattered in front of the factory in such positions as suggested that they had been thrown. A commission agent Rangayya examined as an official witness, states that after 2-30 P. M.

hearing that there was a disturbance he went near the toll gate and sat on a sand heap near the road and saw the firing five minutes later. He says that he heard the people saying that the crowd were throwing stones, but it is curious that he did not see what the crowd was doing immediately before the firing and does not speak to having seen any stone throwing. A clerk of the company Venkateswarulu says that stones were thrown on the police and on the gates (of the factory). Another clerk of the company by name Jwalapathi also says that there was pelting of stones at the factory gates.

The First Information Report refers to the crowd near the factory gates as a "huge and aggressive mob from which was coming a rain of huge stones". The First Information Report also states: "stones were also falling from all directions around my (Joint Magistrate's) car which was hit several times and bears the marks of it". The First Information Report says later on "They (the crowd) replied with a hail of stones from the railway road".

It is noteworthy, however, that the First Information Report does not mention any stone-throwing by the crowd on the road after the first lathi charge by the reserve police driving them up to the toll gate limits. The First Information Report states that (as a result of the first lathi charge by the reserve) "The main parts of the crowd went down the road following by the reserve police party when we had got them to a point where the houses of Perala begin, we halted and thought best to retire. The withdrawal was effected partly by bus and a position was taken up on the road near the factory. The mob however advanced up the road again and had to be driven back about the same place as before from which we retired after having done so. After a short time the mob to which we sent several messages through passers-by warning them to disperse, again advanced up the road.....The advancing mob on the road had again to be driven back". There is no mention here of any stone-throwing with reference to these two alleged advances by the mob.

The evidence of the witnesses for the labour Union was to the effect that stones were being thrown on the crowd at the factory gate from inside the factory. One Joseph, a labourer, speaks about this and one Mr. Williams, an ex: Councillor of the Chirala Municipality also speaks to this.

It is obvious that the story of stone throwing as given by the official witnesses is a gross exaggeration if it is not wholly false. It is most extraordinary that if there was stone throwing by a determined and aggressive mob numbering some thousands pelting huge stones at the rate of fifty to sixty per minute the police and the officials should have been able to escape without any hurt. The medical certificates filed (whose genuineness is challenged for the Labour Union) show only small abrasions and contusions. Dr. K. R. Chandra Ramasastry examined as official witness says "Dy. Superintendent of Police the Circle Inspector, the Sergeant, the Sub-Inspector and eighteen police constables were injured by stones. There were no wounds inflicted All the injuries were abrasions and contusions". There is absolutely no reason suggested why any stone throwing at all was started by the crowd against the police at the factory gates. Admittedly, the Joint Magistrate, the Deputy Superintendent of Police, the Company Manager and the Company Director all came in into the factory without any molestation or trouble which is most unlikely if there had already been stone-throwing by the mob. The Deputy Superintendent of Police in his evidence very clearly states "There was no stone-throwing or hostile act towards us (Police)". Later on, again, he says "No stones were thrown at us". In the face of this very clear evidence the story of stone-throwing at the police at any rate in the earlier stages is clearly unsustainable. The suggestion apparently so far as the Dy. Superintendent of police's evidence is concerned is that there was stone throwing at the factory or stone-throwing by one section of the crowd against the other, but not at the police. This theory of hostility towards the factory or conflict between two sections of the crowd has already been discussed and shown to be hollow.

Whether or not the version on behalf of the Labour Union that stones were really pelted from inside the factory on to the crowd is sufficiently substantiated, there are certainly strong reasons to doubt the official story that there was hostile stone-throwing at the police, at any rate to such a degree as to necessitate the repeated lathi charges and firings in supposed self-defence.

If there be any foundation for the story of stone throwing against the police, what was the reason for this hostility against the police and when did this hostility commence and in what degree did it persevere at the various successive stages. The case as accepted in the report is that there was no initial hostility against the police and this is corroborated by the Dy. Superintendent of Police. If there was any stone throwing at all, is it a case of the police having made lathi charges to protect themselves against stone throwing, or is it a case of the police having indulged in unnecessary excessive lathi charges continuously, beating up an unarmed mob for a long distance of over two furlongs and getting into hutting areas and beating persons in and around, and thereby provoking some sections of the crowd into some degree of stone-throwing.

These very important material aspects have not even been adverted by the Judge in his report. The Circle Inspector in his evidence makes the very significant admission "They (the crowd) became irritated and threw stones"..... "The rioters were becoming irritated at the lathi charges"

WITH REGARD TO "C".—

AGGRESSIVE ADVANCES BY THE MOB ON THE POLICE.

The main plank in the official version is that every time the crowd was beaten back, it advanced again on the police immediately, the beating stopped and the police retreated. This theory of a see-saw movement between the crowd and the police was started in the First Information Report itself as the substantial justification for

the firing. It was elaborated in the evidence of all officials viz., the Joint Magistrate, the Dy. Superintendent of Police, the Circle Inspector, the Sub-Inspector and the Sergeant.

Mr. Boatfield, the company manager, who witnessed the first lathi charge at 1-45 P. M. speaks of the crowd being driven back by the lathi charge, but does not speak of the advancing on the police after the lathi charge ceased, nor, as already stated, does he speak to having seen the crowd throwing stones at the police.

Mr. Gemmet, a Director of the company, says he saw a lathi charge at 1-40 P. M. and deposes that as a result of it part of the crowd went east about 100 to 150 yards and part west about 300 to 400 yards. He too does not speak to having seen the crowd advancing aggressively on the police again when the lathi charge stopped nor does he speak to have witnessed stone throwing on the police. He further says "When the police stopped (after delivering the lathi charge) the crowd was about 30 yards away from the police. When the police stopped, the crowd ran some short distance until they saw that the police had stopped. Then they stopped". He does not say that after stopping they again turned back and advanced on the police.

The commission agent Rangayya examined as a witness on the official side says that he saw the police charging the crowd and the people running away.

The company clerk G. Venkateswarulu examined for the company says "The police ordered a lathi charge. There was rush in all directions."

Another company clerk, Jwalapathi, examined for the company speaks of having seen a lathi charge, but does not speak of the crowd advancing on the police after lathi charge.

The only witness (outside officials) who says anything about an aggressive attack by the crowd on the police after a lathi charge, is a railway gangman by

name papayya examined as an official witness. He says "Six police constables were charging them (the crowd) back towards the railway line with lathies. The mob threw stones at the police. The police fell back and the mob attacked with stones".

It is certainly noteworthy that the versions spoken to by the officials about the crowd advancing on the police after every lathi charge is not corroborated by evidence of any of the other witnesses and only a petty gangman could be found to speak to it. The evidence of the witnesses extracted above clearly shows that at every lathi charge the crowd was rushing pell-mell in all directions and it is most improbable that such a crowd would have been systematically advancing on the police, when the police retreated after each lathi charge. It is extremely difficult to believe that a crowd of 5000 to 6000 persons which could at one lathi charge be driven away as far as the Municipal limits, a distance of about two furlongs, would have been so continuously aggressive-minded as to advance on the police after every lathi charge. As already noted the First Information Report when mentioning that the crowd advanced towards the police twice after the first lathi charge by the reserve police, does not mention that there was any stone-throwing and if there was no stone throwing, it is most unlikely that there was any aggression. It is part of the official case that one section of the crowd numbering over a thousand split up from the main group at the first lathi charge, ran away towards Stuartpuram side and was coming back again and that the same could be kept under control by the Dy. Superintendent of Police with a few constables. It is not suggested that the group of one thousand was uncontrollably aggressive. There is no reason suggested why the other section of the crowd which ran along the road to the Municipal limits should have behaved otherwise. The First Information Report distinctly states that messages were sent to the crowd at the toll gate to disperse through "passers-by" which clearly shows that there was no menacing crowd on the road and that men were freely passing along the road.

“D” OUT-FLANKING MOVEMENT,

It will be remembered that the firing was directed not against the main section of the crowd which had been driven up to the Municipal Limits, but against the crowd which was on railway line more than two furlongs away from the factory. The official case is that they had to fire on this crowd because they felt that this section of the crowd had separated itself from the main section with a view to out-flank the police and hem them in and that consequently to check this out-flanking movement and to prevent this section of the crowd attacking the bungalows of the company's officers and in self-protection they had to open fire on both the occasions. This theory of out-flanking is a mere theory.

There is no evidence of any real out-flanking movement except the assertions of the officers interested. Mr. Boatnoid has deposed there was no hostility towards the company's officers. The Dy. Superintendent of Police deposed there was no stone-throwing at the police -- at any rate - in the earlier stages.

There was no actual hurt or injury to anybody of any serious nature or damage to life or property. The crowd had been dispersed pell-mell as a result of each lathi charge and this very large group of men could be beaten up to a distance of more than two furlongs along the road. As a result of the lathi charges, the road appears to have been clear as the First Information Report mentions about passers-by through whom messages for dispersal were sent to the crowd standing away after the toll gate limits. It is obvious that as a result of the continuous lathi charges up to the toll gate the mob was running away in different directions and some portion of the crowd would naturally have run away towards the railway line and taken shelter near the huts on the other side of the main railway line.

To determine the truth of this theory of out-flanking, it is essential to determine the distance at which the crowd was at the time of the first firing. It

has already been seen that there is a definite conflict of evidence as to whether the first firing took place near the huts beyond the main railway line or somewhere about the huts between the road and the branch line. If it is the latter there may be some scope for the suggestion of out-flanking if a portion of the crowd which had been driven some furlongs away came to a fairly near point again by a circuitous round. But if it is the former, as not probably it is, to imagine that a crowd more than a furlong away from the police were likely to out-flank the police is super-imagination.

It has to be noted in this connection that the crowd on the railway which was apprehended to be making an out flanking movement was first charged by Sergeant Reilly with four or five lathi constables. Sergeant Reilly in his evidence says "We drove the mob right back beyond the huts.....I went among the huts on the left (of the road) with 4 or 5 men driving out there who had been throwing stones from the huts.....Saw ranks at rear of crowd in front throwing and crowd reappearing on the railway line. Thought would be cut off and police would be hemmed in between two parties... ..I now took the 4-5 menand went across to the railway line.....The mob then occupied the whole area in front of the huts to the right of the railway line." He says later on that he walked about 25 yards from the road to the railway. If this is meant to convey an idea of the distance between the point at the road wherefrom he crossed to the railway and the point on the railway line near about post 212/1 where the crowd appears to have been, it is obviously a gross under-statement.

It looks very probable that the Sergeant in the over-zealous discharge of his work (or callous disregard of the real necessities of the situation) cleared the mob for a distance of two furlongs by continuous beatings and lathi charges and then turned his attention to a portion of the crowd which had run away pell-mell towards some huts on the left of the road and then turned his attention to another portion of the crowd which must have similarly run away to the right side of the

road to the huts beyond the main railway line and pursued and attempted to beat away the crowd there in his callous thorough-going manner.

Whether the above conclusion is correct or not, it is obvious that in order to determine the truth of out-flanking any one must determine the distance between the place where the police had retired after the lathi charges and the place where the first firing and second firing had taken place as the report does not address itself to this very material aspect of the case.

CIRCUMSTANCES THAT LED TO THE 1ST FIRING & 2ND FIRING SEPARATELY.

It is now necessary to consider the circumstances relating to the first and second firings separately

The first question to be determined in this connection is the exact location of each firing. This has already been discussed and it has been shown that there is definite conflict in the official evidence on this matter but very probably both firings took place near the huts on the right side of the main Railway Line.

The actual evidence relating to the first firing is as follows: The First Information Report says:—

‘ The mob on the railway line looked extremely threatening and likely to out-flank us and attack us in the rear. To prevent this I went with a party of police carrying lathies to clear this mob back. After first urging them to disperse or retire we ran towards them and made an attempt to disperse them. Instead of dispersing however they replied with a hail of stones from the railway road and elsewhere and advanced towards us in a threatening manner. The firing party were then on the road. I ran to get half of the party. By the time I got to the road four men armed with rifles had gone across to the assistance of the others and I heard only volley of firing. I then ran back ”.

Sergeant Reilly in his evidence says that he "Saw ranks at rear of crowd in front thinning and crowd reappearing on railway lines. Thought would be cut off and police would be hemmed in between the parties..... I went among them with my lathi men, but could not disperse them. I felt sure that if the mob succeeded in breaking past the police we would have been overwhelmed..... I was struck on my arm with a stone and all my men were struck. The crowd were picking up stones from the permanent way..... Hundreds of stones were falling".....I cried out "Bring up the rifles.....Bring some assistance My men also cried in Telugu The Circle Inspector followed one minute later" "After the Circle Inspector came, he gave the order for firing." The Circle Inspector in his evidence says: "Some of them (crowd) crossed the railway line and came east towards the bungalows and the factory. The Joint Magistrate ordered us to charge them. They were driven back towards the huts. They became irritated and threw stones. The men who went on the charge cried: "We are dying. we are dying." I ran to the railway with my men. The lathi party led by the Sergeant fell back behind me. The mob was advancing pelting stones.....Our charges had proved ineffective and all our party had been struck. I also thought it likely that the bungalow with women and children would be attacked. The rioters were becoming irritated at lathi charges. I also expected to be surrounded and hemmed in and destroyed unless this advance was checked and so I saw no alternative but to open fire. I called loudly to Joint Magistrate. I got no reply and could not see him. I thought I could no longer wait and so ordered the Sergeant to open fire..... Three men were ordered to open fire one round each. The leader fell, got up and ran away. I did not see any other man injured. Within a minute of my firing, the Joint Magistrate came from the huts. I had no time to call for assistance before opening fire. As soon as the second firing was over, I explained to the Joint Magistrate the circumstances under which I had fired without his orders"

The Joint Magistrate in his evidence says: "They pelted stones and came on us. Gave the police 15 -- 6

lathi constables with a Sergeant) a hand-to-hand fighting. Seeing the thing was precarious, I went to get the armed section but found they had retired already..... I looked round to see where the armed section was and then I heard the volley from the place I left". He further on says: "I did not know the circumstances under which the order was given except that I heard the fire. I did not see any casualties as a result of the firing. I understand one man was hit, I did not know at all that he died".

The Sub-Inspector in his evidence says: "Some of the mob then crossed north of the line and back towards the factory. After warnings the Sergeant and 4 men charged them. They were followed by the Joint Magistrate. They were severely attacked by stones. Cried for help. The Joint Magistrate and I turned back to look for the armed men. Firing" "I saw the Sergeant beat 1 - 2 men on the railway line". "The police were charging the crowd and they were running away. There was a cry from the people that the flag was shown and that if the crowd did not disperse there would be firing. Five minutes later there was firing People said that the crowd was throwing stones. Then all dispersed

"I heard only one firing. I did not hear that there had been any previous firing.....I was there for about twenty minutes. The people retreated past me and I joined them."

It is not clear from this evidence whether this refers to the first or second firing. It may refer to the first because he speaks to having seen the charging of the crowd by the police (which preceded the first firing. There is no evidence that the second firing was preceded by a further lathi charge).

Railway Gangman Papayya examined as official witness says: "Six police constables were charging them back towards the railway line with lathies. The mob threw stones at the police. The police fell back and the mob attacked with stones. The police shouted loudly

"Bring the guns". Eight police constables came towards the railway line with guns.....The mob did not retreat but threw stones. The Police then fired".

The above statement of the evidence makes one thing clear namely, that the police sergeant with 4 to 5 lathi constables with or without the Joint Magistrate went up to the crowd that was on the railway line and charged them. The further developements at that stage were the direct results of this lathi charge. Was there a sufficient justification for the police running up to this crowd and delivering lathi charges as against a group of persons that may have gathered there? It has already been noted that the evidence makes it highly probable that the distance between the police party on the road and the mob on the railway line was fairly large. It is not suggested that at this particular point of time the police had to rush up and deliver lathi charge to the crowd because of any pelting of stones. The previous pelting of stones, if any, had at any rate temporarily ceased by that time. The advances by the crowd along the road had also ceased. All that is said is that a portion of the crowd reappeared on the railway line, the police and the officials thought that the crowd was making an out-flanking movement, which had to be cheked. It has been already shown that there was no real basis for this suggestion of out-flanking. It is impossible to say that there is even a justifiable ground for apprehension of out-flanking unless three matters are clearly established :—

1. That the distance of the mob from the place where the police was stationed and the direction in which the mob was moving was such as to have resulted in out-flanking within the next few minutes.
2. That the mob at that particular time was so large in numbers that the police would have been helpless as against such an out-flanking.
3. That the preceding attitude of the mob was so determined and aggressive that nothing but aggressiveness could have been anticipated from the position of the

crowd. As to the numerical strength of the mob on the rail road at the point of time, the evidence is again conflicting. The Joint Magistrate says that the mob on the rail road was from 4 to 5 thousand; Sergeant Reilly says that the crowd on the railway line was larger than the crowd on the road. The Circle Inspector says that there was a mob of about 2000 in front. While thus three official witnesses give very large estimates, each different from the other, the engine driver T. F. DeSelver examined as an official witness says that the mob on the railway road was within "300 to 400 or more". The railway gangman Papayya who on all details that he speaks to generally falls in line with the evidence of the police officials, says the mob present on both sides of the lines is 3000 to 4000. It is not easy to believe that the mob on the railway line would have numbered many thousands as the official witnesses say. A portion of the crowd had been dispersed towards the Stuartpuram side by the first lathi charge. A portion of the crowd had run into the huts lying to the left of the road. The major portion of the crowd had been driven away by beating along the road towards the Municipal limits. The crowd that had gathered on the railway line was therefore only a section that had dispersed and run away towards the huts by the side of the railway line as a result of the police lathi charge. It is quite unlikely that that portion of the crowd would have numbered to the extent of thousands. The evidence of the engine driver De Selver to the effect that the crowd on the rail road was about 300 to 400 is more likely to be nearer the truth. This is also corroborated by the evidence of Dr. Samson. At any rate, the report does not show any appreciation of the bearing of the magnitude of the crowd at the time on the railway line on the justification for the lathi charge, which brought about the subsequent situation. The number of the crowd at the point of time is also material for judging whether the crowd could not have been dispersed by a further reinforcement of lathi constables, who were admittedly in reserve nearby rather than by resorting to the opening of fire. Whether there was any real ground for apprehension having regard to the distance of the crowd has already been dealt with. The crowd had been dispersed in all directions

and ran pell-mell. They had been cleared upto a distance of 2 furlongs more along the road and at any rate during the later stages of the lathi charges in the process of this clearing, there was no stone-throwing. The road was clear enough for passers-by and no policeman had received any serious injury and there was no attempt or demonstration of hostility against the company's officials. In these circumstances, it is not reasonable to assume that there was any real ground for apprehension that the appearance of a portion of the crowd on the railway line really amounted to an attempt at out-flanking which required to be checked.

In this connection, it would also be material to consider what time had elapsed between the driving away of the crowd to the toll-gate limits and the appearance of a section of the crowd on the railway line. Assuming that the crowd which was at the factory gates, and had been driven up along the road to the toll-gate limits, was found to be determined and aggressive and had indulged in stone-throwing and repeatedly advancing on the police and other aggressive acts, still it would not follow that the appearance of a crowd sometime later on the railway line must give rise to a reasonable apprehension that the crowd will create further trouble and had therefore to be dispersed. According to the Joint Magistrate "He took an hour to drive back the people" It is not clear what portion of this hour was occupied in the lathi charges to drive the crowd from the factory to the toll-gate and what interval there was after that and before firing. But obviously these various stages did not follow in such quick succession as to make it inevitable to assume that they all constituted several and successive phases of a single effort of a determined and homogeneous mob. The Enquiry Officer has not appreciated that the interval is a matter of considerable importance to judge whether the apprehension was reasonable. Taking all the above circumstances, it is fairly clear that a mob of a few hundreds on the railway line at a considerable distance from the place where the police were stationed on the road, after clearing the road to a distance of 2 furlongs was unnecessarily pursued and lathi-charged and beaten and this as the Circle

Inspector admits irritated the mob and probably started the further trouble. Whether there was sufficient justification for the firing after the trouble was provoked by the police is somewhat difficult to say. But as already stated, even this must depend to a very large extent upon the number of the crowd, its position and situation and its being controllable by a large lathi force.

The most outstanding feature, however, of this case is the fact that the firing was ordered by the Circle Inspector without the knowledge of the Joint Magistrate. The Joint Magistrate was admittedly very near at hand. He had returned "within a minute" of the firing. He had only gone to a place at which the cry of the Sergeant for help was heard and fetched the Circle Inspector. The Circle Inspector says that he cried out for the Joint Magistrate, but did not get a response. It is impossible to believe this. If the cry of the Sergeant could be heard on the road and could fetch the Circle Inspector of police in a minute, there is no reason why the cry of the Circle Inspector from the same spot could not be heard by the Joint Magistrate who was on the road and why the cry did not fetch the Joint Magistrate immediately. Even though the Joint Magistrate had actually turned up in a minute and nothing very serious could have happened if the Circle inspector waited for that minute, the Circle Inspector says that he explained to the Joint Magistrate the circumstances under which he was obliged to fire immediately after the first firing was over. But the Joint Magistrate says that he was not at all aware of the circumstances. This conflicting evidence makes it doubtful whether the truth had been told and involves this portion of the case in considerable mystery.

Next, considering the circumstances relating to the second firing this would to a large extent depend upon the situation preceding the first firing and brought about by the first firing. Is it likely that the mob would have persevered in assuming an aggressive attitude after it had been fired upon and one person fell down shot before their very eyes. Some portion at least of that crowd certainly have run away and whether the

portion of it that may have remained was capable of being dealt with by a reinforcement of lathi police is a matter that has not been appreciated or adverted to in the report. On the evidence of the official witnesses as given, it looks as though the Joint Magistrate, to say the least, had become panicky and had run up to fetch the rifle and gave a further order for firing under the influence of the panicky impulse without fully taking into his mind the fact of the first firing done without his knowledge, or the change in situation that may have been brought about by such first firing. And this probability accounts for his saying that he was not aware of the circumstances relating to the first firing and also for the more curious admission that he was not aware—apparently until the date of enquiry—that the person who was wounded by the first firing had subsequently died.

At this stage, one curious portion of the evidence requires careful notice. The commission agent, Rangayya, examined on the official side, states that he was at a distance from the firing spot for about 20 minutes; that he heard only one firing, that he saw a lathi charge preceding that firing, that as a result of the firing he saw the crowd had "all dispersed" and that he did not hear that there was any previous firing. This evidence makes it clearly certain that he very probably saw only the first firing which was preceded by a lathi charge and that as a result of that firing, all had dispersed. Where then was any necessity for a second firing? His evidence also makes it very doubtful whether there had been a second firing at all. He says he was there for 20 minutes and saw one firing and had not heard that there was a previous firing. If the two firings followed in quick succession as the official evidence purports to make out, it is impossible to imagine that this witness did not hear, (if he did not see), the two firings. The only other possibility would be that the two firings were separated by a very considerable interval of time. And if this be the truth, the truth has been suppressed. And the lapse of time would make a very considerable difference in justifying the circumstances. This witness's evidence therefore taken from any point of view cuts

right across the official version and throws very grave doubts on the truth of it. It is to be remembered that this witness was examined on the official side and there is obviously no reason to reject the evidence and accept the very interesting evidence of the official witnesses themselves.

THE NATURE OF THE WOUNDS RECEIVED AT THE FIRINGS AND CONCLUSION THERE FROM

The nature of the wounds received by the persons shot offers very material and substantial evidence as to the circumstances relating to the two firings. Six shots in all were fired; four persons had received gunshot wounds, of whom 3 died, 2 died on the spot and one died in the hospital a few days later. The person living received wound on his wrist, the person who died in the hospital had his abdomen pierced through by the shot. Of the 2 persons who died on the spot, one received a wound through the head, another received a wound through his shoulder-blade. The report and the evidence disclosed a controversy whether any or all of the wounds were received from the front or from the back. The report says "the man who was shot through his wrist was no doubt shot from the front". It is not clear why this should be so assumed. There is nothing in the nature of the wrist wound to enable one to say that the shot must have been from the front. It might equally have been the result of a shot from the back. All that can probably be said is that it is inconclusive.

Next, with reference to the shot through the abdomen the report says "admittedly another was shot in the abdomen, the shot coming through his back". This again is clearly wrong. The Medical officer examined with reference to this wound namely Dr. A. J. John of Guntur says that he held a post-mortem of this person: "He had wound in front and behind, the wound in the back might have been the exit wound which was large enough and somewhat ragged. But I cannot be sure what it was". In the face of this evidence it is a clear misunderstanding of the evidence to say that the shot

was "admittedly", in the front coming through the back. The utmost again that can be said of this also is that it is inconclusive. Next as to the shoulder-blade wound, the report says "one of the men was shot below one of the shoulder-blades and the bullet came out through the opposite flank. Obviously, that man was facing at right angles to the line of firing". Even so this appears to be a shot against a person who was turning away from a firing rather than turning towards the firing line, and is suggestive more of a back-shot than of a front-side shot. The main controversy centres round the wound of the person who had received a shot through his head. The report says "according to the post-mortem certificate this man had a wound in front of his head and no exit wound". The inquest report however states that there was an injury behind on the head of the deceased caused by gun-shot. The Enquiry Officer brushes this aside by saying that this may not have been anything more than a clot of blood. None of the Panchayatdars have been called to explain why that entry was made in the inquest report if it was not correct and whether there was any scope of such a serious mistake. It is impossible to see how the Enquiry Officer came to brush aside the entry in the inquest report on a gratuitous assumption that the Panchayatdars at the inquest may have made a mistake.

If he found a conflict between the post-mortem certificate of the doctor and the remark in the inquest report, the least that could have been done was to recall the doctor and to get his explanation, and that has not been done. If there was a wound both in the front of the head and in the back of the head, this wound again cannot be assumed to be a result of the front shot. Doctor Chelapathy Rao of Guntur has given evidence that the front wound was so large that it was not likely to have been an entry-wound but that it must have been an exit wound. Dr. Chelapathy Rao explains that a fast moving bullet behaves as a sharp weapon and a slow moving bullet as a blunt weapon and that accordingly the exit wound of a bullet which would be moving slower will be larger than the entry wound. The Enquiry Officer, while accepting generally that the exit

wound would be larger than the entry-wound attempts to make out that the largeness of the wound in front of the head of this particular deceased must have been due to slow velocity with which it struck the head and that it consequently also remained imbedded in the brain. In view of the conflict between the post-mortem certificate and the inquest report, this theory of the bullet remaining imbedded in the brain should not have been accepted without further scrutiny. apart from this, if the bullet impinged on the head at such a slow velocity in order to be able to get out of the brain, the bullet must have been shot at from a fairly considerable distance and a further investigation of the distance at which it should have been shot in order to remain imbedded in the brain would probably show that shots have been fired at a fairly distant crowd, thus falsifying most of the details in connection with the 2nd firing which has been spoken to by the witnesses.

It is to be remembered that according to the evidence these shots at the second firing struck two persons who were in front of the crowd and therefore the depth of the crowd could not account for any portion of the shooting range between the person who shot and the person who received the wound. If the inquest report is to be accepted and there was a back side wound and if the front wound is a large one and more likely to be the exit wound, then it would follow that this shot has certainly been received from the back. In addition to this, the widow of the person who died in the first firing of the abdominal wound has given evidence that her husband had just then come from home to take her away from the mob and that while they were both returning he received the wound in the back. If this evidence is to be accepted, this will also be an instance of shot in the back. Thus there is reason to think that the three wounds of the persons who died were the results of shots from the back and this is suggestive of the inference that the firing was resorted to as against a retreating crowd. The Government in their communique accepting the report say that it is immaterial whether the shots are from the front or from the back, because in a riotous mob some persons might be retreating and some persons

might be fighting and it may be a matter of mere coincidence that the actual shot may have happened to affect the retreating persons. But it is certainly remarkable that all the three wounds of the persons who died should be the result of back side shots. Such a coincidence is not likely to have been the result of mere chance. But apart from this, the Government's communique fails to take note of the very definite evidence that has been given.

On that evidence, there is no room for the suggestion that the two persons that received shots in the 2nd firing may have been persons who were retreating from out of a riotous crowd most of which was fighting. The Joint Magistrate in his evidence very definitely states that the two people who fell down dead were "slightly in advance of the mob" and "in front of the mob" and also says that "They were rushing forward urging them (the crowd) on". If therefore it is established on the circumstantial medical evidence that either or both persons who received the shots by the 2nd firing, had received only back-side shots, this would falsify the official version in a very important and material portion of the case. It is to be remembered that the bodies of the two persons that fell dead on the spot were immediately carried away by the police and the Joint Magistrate has been put a series of questions by the Enquiry Officer as to how it was possible for the police to enter into the midst of a hostile crowd and bring these dead bodies and the Magistrate explains by saying that the persons who were shot were in advance of the crowd separated some little distance from the crowd and that therefore their bodies could be brought away without any trouble received from the crowd. If the Government's explanation of the back-side shots is to be accepted, the case with which the dead bodies could be got away is in itself a clear and unmistakable indication that the mob at the time was neither large nor hostile. It would appear therefore that in this aspect of the case both the Enquiry Officer and the Government have accepted the official version all too easily without any sufficient Scrutiny.

The Evidence and the probabilities have been so far discussed under the various headings and the discussion has been almost entirely confined to the evidence on the official side and on the side of the company, and is based upon transcript of the said evidence supplied by the Enquiry Officer to the President of the Labour Union, and no attempt has been made to put forth the point of view of the Congress Enquiry Committee because for reasons that will appear later full evidence was not forthcoming.

The trouble in the factory started on the 8 th. From the 8th to the 13 th. the situation was entirely peaceful. In the forenoon of the 14th there is some evidence that there was picketing but there is no sufficient evidence to assume that the picketing was not peaceful. There was a meeting of the labourers in which they were advised not to go near the factory and the Joint Magistrate who had watched the situation in the morning was satisfied that there was no reason to apprehend any trouble. A rumour spread by the Head Clerk of the company got circulated that a compromise has been arrived at and that the labourers may come back to work. This attracts some of the workers to the factory gates. It is said that at the factory gate, two hostile groups gathered, one intent on going in and the other intent on preventing the same but the evidence bearing on this is not believable and the probabilities are against it. There is said to have been some picketing, stone-throwing and the like; the actual evidence, however, that such hostile demonstrations, if any, were of a minor character and there is no substantial evidence of any actual conflict between two big and equally numerous groups which required the intervention of the police by lathi.

The crowd is said to be armed with sticks, chisels knives and other missiles, but the evidence relating to this is entirely unsubstantiated. There is said to have been continuous stone-throwing by the mob at the police at various stages, but the evidence in this respect has certainly been very greatly exaggerated as is clear from the absence of any serious injuries on the police. It is very doubtful if there was any stone-throwing

against the police at the factory gates since admittedly there was no hostility towards the police or the company officers in the beginning. But whether or not there was stone-throwing at the factory gates and whether or not such stone-throwing was against the police or otherwise, it is reasonably certain that by continuous lathi charges the police had completely driven away the crowd to a distance of more than two furlongs from the factory gates, it is also reasonably clear that when the crowd was being driven by lathi charges from the factory gates up to the Municipal limits there was no stone-throwing since the First Information Report does not mention the story of a see-saw movement the police and the crowd all along the road and the story that the crowd was so determined as to retreat further and further small distances at every lathi charge is a clear development not to be found in the First Information Report is wholly unbelievable. The crowd was easily controllable and had run pell-mell in the various directions at the successive lathi charges. No reason is shown when and why the crowd became hostile to the police and it is a reasonable inference to make that it was continuous and excessive lathi charges of the police over a range of two furlongs that, if at all, provoked the irritation of the mob. The Police would appear to have been merely upset by the presence of a large crowd which had collected near the factory gates owing to a misleading rumour and without any justifying acts of aggression, the police thought it necessary to disperse the crowd and hence indulged in a severe and provoking lathi charge. The crowd had run pell-mell in different directions and one section of it probably ran away towards the railway line while they were driven along the road by beating. The story that the crowd that gathered on the railway was a portion of the crowd that had been driven up to the toll-gate limits and had separated itself there has apparently been introduced to probabilise the theory of the out-flanking movement of the crowd. The police after succeeding in clearing the entire road and after driving away those who had taken shelter in the huts by the side of the road turned their attention to the portion of the crowd which while being pursued had run away to the huts

on the other side of the main railway line. The crowd on the railway line was very probably not of very large dimensions and may have consisted of persons or labourers who may have had to go away to the villages on the other side of the railway. But it was the police that for one reason or other ran up to a considerable distance and lathi-charged at the retreating crowd. This crowd has been exaggeratedly stated to be 3 to 4 thousand in number but was very likely not more than a few hundreds as deposed by the engine driver DeSelver. It is possible that the mob might have been irritated and provoked by this very unnecessary and the gratuitous beating by lathis at such a considerable distance away from the factory, a distance of very nearly two to three furlongs.

It is just possible that under this provocation and exasperation which was quite unconnected with anything that may have happened at the factory gates or along the road, the police as a retaliatory measure and not for self-defence, nor on account of any apprehension of trouble to the life and property of the company officials brought up rifles for shooting. At the very sight of the rifles the mob must have begun to run away but the police and the Joint Magistrate either from the influence of retaliated spirit or under the influence of panic may have fired shots whether in one stage or in two stages on a mob that had begun to retreat.

Whether or not these conclusions are right there are obvious difficulties in accepting the conclusions of the Enquiry Officer as given in the report if the evidence is carefully and thoroughly scrutinised. In the first place the report does not indicate any appreciation by the Judge that the distance at which the firing took place has a very great material bearing on the question at issue. The trouble arose out of an alleged disturbance near the factory gates. If the mob had been driven away beyond two to three furlongs there would obviously have been no necessity for the police to proceed up to that distance and fire upon a mob that was situated at the point. The Judge has failed to appreciate that the distance must play a very great important part

in determining whether or not apprehension of out-flanking movement was reasonable. The Judge has merely assumed the allegation of out-flanking without any scrutiny or investigation.

The Judge has failed to realise that in some material respects the story as given in the evidence is a development of the story as given in the First Information Report. The First Information Report very definitely and clearly states that the crowd at the gate was driven right up to the toll-gate limits by lathi charge at one sweep. The story as given in the evidence speaks of the crowd being driven from step to step and stage to stage and the whole of this length being covered only by successive stages. This change is obviously made for two purposes (1) To minimising the interval of time between driving away of the crowd up to the toll-gate limits and the firing incident. Very likely there was considerable interval of time between the two as corroborated by Dr. Samson's evidence who said that as early as 2 O'clock he found the road very clear and the mob standing beyond toll-gate limits. In order to cover this interval the evidence has attempted to transfer that interval of time to the interval between the disturbance at the factory gate and the reaching of the crowd to the toll-gate and the Joint Magistrate in his evidence is particular about saying that he took an hour to clear the road from the factory gates and drive the people to the toll gate limits. Consequently this progress of the crowd along the road in successive stages has apparently also been introduced, that the crowd was very determined and aggressive and could not be made to move except for short distances, thereby probalilising the continuous aggressiveness right up to the time of firing. Another development between the First Information Report and the evidence as given is that in respect of the 3rd and 4th lathi charges said to have been delivered by the reserve police. The First Information Report made no mention of stone-throwing while the evidence introduces that.

This again is introduced to keep up the impression of a continuous stone-throwing. The picture as brought

out in the evidence is one of a regular and continuous fight between the police and the mob all along the line right up to the point of time when the firings occurred in order to probabalise the theory of out-flanking while the picture as presented in the First Information Report is clearly not of a continuous pitched fight between the police and the mob, but of the crowd completely demoralised and routed by the very first lathi charge, driven away to long distances and wearing ground out-flanking after the lapse of some time. The time and place of firing have not been mentioned in the First Information Report and was very probably deliberately done so in order to enable details to be filled up later. The Judge has also not noticed that the story is full of gross exaggerations or under-statements. The story about the crowd being armed with sticks, knives and chisels and of stones being hailed at short range at 50 to 60 per minute is demonstrably false. The story of continuous stone-throwing is a clear exaggeration. The story of continuous and determined aggressiveness of the mob is clearly over-drawn. The Judge has not noticed the conflicting evidence between the official witnesses themselves as to the place where the firings took place, the Sub-Collector's evidence indicating a point near the branch railway line and the other witness indicating a point further up beyond the main railway line. The Sub-Collector has also not noticed the conflicting evidence regarding the number composing the mob and the time of firing, the evidence of the Sub-Collector and the Circle Inspector indicating that the mob was some thousands in number while the evidence of the engine driver indicated that the crowd was only some hundreds in number, which is also corroborated by the evidence of Dr. Samson examined as a court witness. The Judge has not noticed that the evidence of the commission agent Rangayya is at substantial variance with that of the official witnesses and all too easily assumes that it corroborates the police witnesses. In this connection it should be worthwhile to mention that the judge rejects without any justification the evidence of Dr. Samson who was examined as a court witness. Dr. Samson has deposed that he went to see the manager of the factory at 2 P. M

in order to mediate between the company and the Union and that as he passed along the road the only crowd he saw was only of a few hundreds situate at the level-crossing some furlongs away. The Judge says the position on the road spoken to by Dr. Samson was roughly the state of affairs just before 2 P. M. and therefore Dr. Samson in his opinion who was talking to the position at 2 P. M. could not have been speaking the truth. It did not occur to the Judge that the position on the whole represented as that at 3 P. M. might really have been the position already reached by 2 P. M. and that the firing took place one hour later at 3 P. M. and that in order to cover up this interval the evidence has woven a story lengthening the period of lathi charge over a period of one hour as already noted. The Judge does not advert to this because in his view "the whole of this enquiry has preceded on the assumption which no one has doubted for a moment that there was a huge crowd around the factory gates from 1-30 P. M. always and that they were greatly driven all the time along the road by lathi charges". If the Judge could merely assume this without scrutiny in spite of the obvious variation between the First Information Report and the evidence, this itself shows how uncritically the Judge has approached all the material questions in the case. Dr. Samson's evidence is clear and disinterested and that shows that there must have been considerable interval between the completion of the lathi charges for driving the crowd to the end of the road and the starting of the situation on the railway line which resulted in firing. It also shows that the crowd by the level crossing by about 2 O'clock was only a few hundreds. This evidence, if accepted, would completely demolish the cut-flanking theory and the only reasons for not accepting it is an all-too-ready reliance on the official evidence with all its details.

The theory propounded by the Judge in the concluding two paragraphs of his report is an extraordinary one. He says as follows: 'It was the duty of the police to intervene when force was being used by those who did not wish to return to work against those who

did, but even if the police had decided to remain neutral in that matter, a conflict at some time or other between those who wished to return and those who did not would have been inevitable. When the police appeared, the crowds naturally transferred their animosity to the police and the fight between the police and the rioters could only end by the victory of one side or the other. There could have been no draw or stale-mate. If one side had to have the victory, there could be no doubt that the police victory resulted in very much less loss of life than a victory by the strikers. This implies that before any evidence of serious conflict actually arising between two groups (if two such groups existed at all in this case) the police were justified in inviting a fight from the mob and taking the opportunity of routing them.

It also assumes that police intervention means only one reaction from the mob namely a fight and therefore a fight to the finish. The theory leaves no room for quite a number of probable and intermediate contingencies in such a situation which might avoid an actual conflict between the two rival mobs or a fight to the finish between the police and the mob.

The Judge in his report has made quite a number of assumptions which are not borne out by the transcript of the notes of evidence supplied to the President of the Labour Union. It is unnecessary, however, to enumerate them in detail. The Government in their communique have also made a large number of assumptions and some mistakes. The Government communique starts with the assumption that the conflict was on the morning of the 14th and states as follows:

"On the morning of the 14th there was a large congregation of strikers in front of the factory.....the crowd thus gathered was very large numbering 3 to 6 thousands".

The incident, however, admittedly was in the evening after 1-30 P. M. and it could not be said that this is an immaterial error. One of the points made against the official theory of two rival groups at the factory

gates is that whole of the forenoon was completely peaceful and there was consequently no basis for the suggestion that two rival groups developed all at once by the afternoon. Thus again the Government communique appears to assume that at the point of time when the firing occurred there was a continued conflict between the strikers and the black-legs and there was a necessity to resort to fire-arms to prevent or check the conflict.

The Government communique says: "The strikers were determined not to leave the place and stones continued to fall thick and unless the crowd were made to disperse the police were bound to be overwhelmed. The only course for the authorities faced with the situation was either to retire leaving the strikers to deal with the black-legs just as they chose or to resort to fire-arms".

This clearly shows that the Government was under a clear misapprehension that at the time when the firing took place there was a conflict fairly in the vicinity of the factory gates and that such a conflict was either with the blacklegs or with the police to get at the black-legs. If the Government had been aware that the firing took place nearly three furlongs away from the factory gates and that the black-legs to the number of about 600 had already got into the factory by that time: according to the evidence of the Joint Magistrate himself, all the gates were closed and it is impossible to believe that the Government would have accepted the report quite so easily.

THE DEFECTS IN THE ENQUIRY AND THE DIFFICULTIES IN THE PRESENTATION OF THE NON-OFFICIAL CASE:

One of the obvious defects in the enquiry and the neglect of the Judge was in forming his judgment by the absence of any real and searching cross-examination of the evidence of the official witnesses. For the officials the question has assumed a life-and-death question and their evidence could not, without scrutiny, be taken

at its face value. On account of the situation to be mentioned later the Union had decided not to cross-examine the official witnesses and to reserve the same to a later stage. Whether this decision of the Labour Union was right or wrong, it is obvious that this threw much greater responsibility on the Judge himself. He was therefore not merely to decide a case between two parties, but to scrutinise the conduct of public officers on behalf of the public. If nobody appeared or participated, it was his duty to ascertain the truth by a thorough scrutiny. But the report very clearly shows that the whole question was approached by him as one of deciding between two parties who had a joint issue on a private quarrel. For instance, he says as one of the reasons for rejecting Dr Samson's evidence that his evidence fits in with neither party's case. If this was so, it was all the greater reason why it was entitled for better consideration in an enquiry of this kind. In rejecting again the evidence of Dr. Chelapaty Rao and V. V. Punnayya, he says that Dr. Ramachandra Sastry's evidence which conflicted with the evidence of Dr. Chelapathy Rao and Punnayya remained unchallenged and that therefore he must reject the evidence of these two latter gentlemen. Obviously there was no method of challenging except by cross-examination and though for one reason or another cross-examination had been refrained from, that could not mean that evidence was unchallenged and that the Judge was absolved from his duty of resolving the conflict between the evidence of Dr. Ramachandra Sastry on the one side and Dr. Chelapathy Rao and Punnayya on the other by examining the Panchayatdars at the Inquest and in other ways. The learned Judge again in his report says that one reason for rejecting the evidence of Dr. Chelapaty Rao and Punnayya is that they were the two witnesses in respect of whose evidence advance summary was not submitted. That again only shows that the two gentlemen were unwilling to figure as witnesses for one side or the other, but this does not mean that the Judge should have rejected their evidence. The Judge again draws from imagination for certain places. For instance, he says, that Dr. Samson must have given his evidence in fear of social ostracism of which there

is absolutely no evidence while on the other hand there is every reason to think that the ascertainment of the truth by this enquiry was greatly handicapped by the terrorism of the police.

The Labour Union at one stretch having decided to reserve cross-examination for very real and substantial reasons at a later stage lost their opportunity to recall the official witnesses for cross-examination. And the 2nd stage of the enquiry was done in such a great hurry and rushed through all in one day and closed without giving any opportunity for recalling the witnesses and cross-examining them. No opportunity was also given for examining all the witnesses intended to be examined on behalf of the Labour Union.

The occurrence under investigation happened on the 14th of February 1938 and Mr. Rutherford, Labour Commissioner was originally announced as the Enquiry Officer. His appointment was cancelled on the ground that just a few days prior to the incident and after the trouble between the company and the labourers started Mr. Rutherford was a guest of the company's Manager. As preliminary to this cancellation, a notice was received on 28-2-1938 that the enquiry by Mr. Rutherford was postponed *sine die*. On that very day nine labourers were arrested in connection with an alleged participation in the incidents of 14th February 1938. This naturally created an impression in the labourers that because a judicial officer was going to be appointed, persons likely to give evidence were being arrested. There were, however, arrests on the 2nd, 15th and 17th of March 1938, and these continuous arrests developed to a panicky situation. The Police strength at Chirala was considerably strengthened and the Sub-Inspector in his Cross-examination admits that two Sub-Inspectors and two police constables in mufti and 30 reserve constables besides the usual police force had all been stationed at the time of the enquiry at Chirala. This was on the ostensible reason that there was still apprehension of trouble between the factory and the labourers and that reports were being received by the police of secret inti-

midation of Union members threatening to loot houses and kill men. When further pressed for details, he stated that he did not make any note of the complaints. It is obvious that Chirala had become an armed camp prior to and during the enquiry in charge of the very police officers whose conduct was under enquiry. It can easily be imagined what the situation would be as to the availability of any evidence against the case of the officers when these very officers for whom the enquiry was a life-and-death question were complete masters of the place wherefrom any evidence could be obtained. The least that should have been done was to have transferred all the concerned officers from the place before the enquiry started and to put the place in charge of disinterested officers.

In these circumstances, it was impossible for the Union to get any witnesses and the Union accordingly sent up representations to the Government for withdrawing the prosecutions and for taking other steps to dispel the atmosphere of terrorism. The Government did nothing more than to issue a communique that the evidence given by any witnesses could not be used against him for any subsequent proceedings against him. This communique was issued after the enquiry started, but was clearly insufficient to meet the necessities of the situation. The Police have many ways of molesting a person other than by launching prosecutions against him and a guarantee that evidence given would not be used for a later prosecution cannot keep away from the knowledge of the police the fact of such and such a person having given evidence and the likelihood of his being molested for that reason. Whether the police would have actually so molested or not, such an apprehension would clearly have existed and this was only confirmed by another arrest made by the police so late as on the 17th of march some days after the Government communique assuring protection was issued and one day before the last day of the enquiry. The Government have certainly not taken necessary measures to create the proper atmosphere for the enquiry. Under the circumstances, the Labour Union being unable to procure witnesses and not feeling confident that they would be

able to present their aspect of the case decided merely to watch the proceedings until the proper atmosphere was restored and consequently when the enquiry was held on the 7th, 8th, 9th and 10th of March 1938, the Counsel for the Labour Union set out all these circumstances in a petition and intimated the Judge that he would not participate at that stage but that he would reserve cross-examination.

When the Government issued their communique promising some measure of protection in respect of any evidence that may actually be given, it was hoped that this might help to secure at least some witnesses and the enquiry was consequently resumed on the 18th Instant. But the arrest on the 17th upset the calculations once again and it would appear that quite a large number of witnesses who were prepared to come forward to the Labour Union up to that time felt scared away and suddenly dropped out with the result that even on the 18th the case for the Labour Union could not be fully presented, and only a few witnesses could be brought up for examination. The Judge was in a hurry to finish his enquiry in that one day on the 18th and sat up till late in the night and had no time to examine the other witnesses or to recall the witnesses examined on the 7th 8th, 9th and 10th for cross-examination. In view of these and other difficulties which were set out in the petition presented by the Counsel for the Labour Union to the Premier after the conclusion of the enquiry, and the resolutions of the Andhra Provincial conference at Tungabhadra (a copy of which is herewith appended), the enquiry was very unsatisfactory and perfunctory. The above detailed consideration of the evidence in the case and the uncritical acceptance of the official version of the Judge on account of want of cross-examination, the summary and perfunctory nature of the enquiry, and the atmosphere of terrorism which made it difficult, if not impossible, to present the non-official side of the case—all make it clear that the truth in this matter has not so far been correctly ascertained and it cannot be ascertained except by fresh and proper enquiry by an unbiased and impartial tribunal.

This Memorandum has not so far dealt with that portion of the Report which deals with the merits of the dispute between the Labour Union and the Factory and the responsibility of the President of the Labour Union in contributing to these happenings. The clauses in the report in these matters have also been equally unsystematic, but they have not been dealt with here as a separate Memorandum has been prepared for the same.

WORKER'S CASE.

I am sending the worker's case in continuation of what I have sent already.

In the report of Mr. Justice Horwill on the Chirala Firing incident of 14th February 1938 the Judge has apparently taken particular pains to present the management of the factory in a favourable light and to portray the case of the labourers in an unfavourable light. He has exercised all his imagination to find material for condemning the President of the Labour Union. The picture presented is wholly one-sided and consists of misapprehension of material facts and the ignoring of a mass of documents filed for the Union. In assessing the responsibility for the origin of the events of the 14th February, the report attempts to make out that the attitude of the Labour Union and the misguidance of the President were responsible therefor. Dealing first with the situation from 5-2-38 onwards the report says: "Stemmers who were on piece-work slackened off in the hope of getting enhanced rates. Soon afterwards difficulty was experienced with ordinary day labour. There was a general slackness among the workers on 7-2-38. On the 8th practically no work was turned out and labourers sat about in groups. Two who were rather bolder than the rest, were immediately dismissed by Mr. Boatfield with the result that all the workers began what is known to-day as "sit-down strike". This is entirely contrary to the facts. It is a bare acceptance of the one sided version of the Company Manager without any investigation and contrary to documents. The company finding that the discontent among the workers had been growing on account of their not having redressed their grievances wanted to check the growth of the expression of discontent by striking terror into the labourers' mind and as an example dismissed two men on the 8th morning without any cause or justification and without even assigning a reason. This was at 8-30 in the morning when all the Labourers were doing their work in the normal routine. The dismissal had brought about an immediate and spontaneous protest on the spot and without any premeditation by all

the workers, and they stopped the work for half an hour as a demonstration of protest. This upset the management. Even though at the expiry of the half an hour the Labourers were prepared to resume the work, the management refused to allow them to work and insisted on their clearing out. But the Labourers anxious to impress the authorities that their demonstration was not meant as a strike, stayed on till the normal time, begging for work all the time. But the management was adamant and put up a notice that the factory was closed from that very day. The Labourers were filled with consternation at this notice when they saw it and they were anxious to go to work and presented themselves at the factory gates next morning. But the management would not allow them admission. The police were brought down by the 8th evening itself and Mr. Rutherford, the Labour Commissioner, came on the scene by the 9th morning and under his inspiration the Reserve Police were sent for. The management seems to have realised that their notice closing down the factory was illegal and consequently on the 10th they appear to have put up another notice that "all the labour would be re-employed as soon as possible". This change in notice was apparently not *bona fide* and was intended merely to evade the penalties of law for illegal lock-out without previous notice. The management deliberately refrained from giving sufficient publicity to the notice put up by them on the 10th and in fact desisted even from sounding the usual whistle (buz) at the normal hours of opening and closing of the factory. The Union and the labourers were not aware of this notice. When this notice became known to the President of the Union on the 11th he suggested through the Joint Magistrates that sufficient publicity should be given to the notice of the 10th by beating tom tom and distributing handbills etc. The management refused to accept this suggestion which itself shows the want of *bona fides*. At the request of the Sub-Collector they only agreed to sound the whistle once. Meanwhile the management had employed some black-leg labour and the workers came to know of it. The workers had their apprehensions that the black-legs would be retained and some of the normal workers

would be victimised and hence they could not decide to return to work unless they were assured that all be taken in without any victimisation. The attitude of the labourers and the Labour Union from the 8th onwards was being intimated to the Management and to the authorities concerned viz. the District Magistrate, the Joint Magistrate and the Government of Madras by telegrams and letters and resolutions. In the said communications the Union intimated very clearly that the management had illegally declared a lock-out and that the men were anxious to get to work and that they were apprehensive of retention of black-leg labour and victimisation of the normal labourers. Neither the Sub-Collector nor the District Collector made any serious efforts to bring about a settlement. The Hon'ble Mr. Giri, Minister for Labour also arrived on the 13th afternoon and tried for settlement but the management refused to listen even to the advice of the Minister—apparently because they felt strong enough to flout his advice—and refused to agree to dispense with the black leg labourers and to re-employ all the labourers within a specified short period. It is this adamant and aggressive attitude of the Management that brought about the situation on the 14th and not as Mr. Horwill was anxious to make out, the disappointment of the labourers after the Minister's visit. It is this illegal lock-out and the unreasonable refusal of the Management to give an assurance that all old hands without an exception will be re-entertained, that was directly responsible for the happenings of the 14th of February.

Now with reference to the period prior to the 5th of February the position was this. The management would not agree to redress any of the various grievances of the labourers. They would not recognise the Union though it was registered nor would they pay any attention to the representations, letters, and resolutions sent by the Union from time to time. The bare perusal of these various representations, letters and resolutions will quite clearly show how submissive and respectful were all the representations and how singularly free from any tone of militancy. Neither the Government nor the District Magistrate nor the Joint Magistrate ever made

any attempt to bring about the settlement though they were being kept informed systematically of all these from time to time. The adamant attitude of the Company increased from day to day as each representation from the Union was being couched in more and more respectful and submissive language.

Justice Horwill has made a gratuitous remark that the demands made by the workers were in the abstract reasonable, that they were based on Utopian notions gathered from the League of Nations' pamphlets without any realisation of the practical side of things. The demands were all not only reasonable but real. Justice Horwill has stated that the conditions of the work and the wages paid were on the whole satisfactory. This, again, is incorrect. He states that the clerks rise up to Rs. 175/- per mensem. This gives a misleading impression that every clerk could rise up to Rs 175/- which is not true. Justice Horwill also states that the wages paid are higher than what are paid in the surrounding factories. And, for this purpose, he states that he has seen that two letters from Mr. Rutherford to Mr. Paul (letters which have not been filed in the enquiry) and that there was no reason for complaint on the score. This is wholly one-sided and no opportunity was given to the Labour Union to show that the labourers were being paid much less than what was just and proper. The impression conveyed in Mr. Justice Horwill's report with reference to the position prior to 5th February is that there was really no room for discontent on the part of Labourers, that the "outside" President steeped in Utopian notions, was progressively putting forward from time to time unreasonable demands and as the Management while being considerate and conciliatory could not find possible to agree to these demands and that the Labour Union was developing a situation to lead a strike in order to force the hands of the Company. This impression is based on a number of mistaken assumptions. It is not true that the demands were unreasonable or Utopian. A mere glance at the list of grievances presented by the Union will show that they were all the minimum and essential requirements of decent labour conditions. It is not true that the demands were being progressively

manufactured from time to time. All these demands were presented to the Company as early as 12-11-37 and the subsequent representations are merely the repetitions of these demands. The report says that "after the beginning of January, the Union apparently decided to see if they could force the hands of the Company." There was absolutely no foundation for this assumption and it is clear misrepresentation of the attitude of the Union. Justice Horwill ignores the fact that even as early as October 1937 it was the President of the Union that was instrumental in bringing about a settlement of the strike then in progress and before he became the President. He ignores the various letters and resolutions of the Union which clearly show that the Union was bent upon adopting only constitutional and peaceful methods for bringing about redress of the grievances and that at no stage did they adopt a threatening attitude and much less was there any inclination or suggestions of a strike and this attitude was maintained throughout and even while the lock-out was in progress after the 8th February. This is also clearly admitted by the Company witness Mr Ramakrishna Iyer, the Head clerk of the Company and the then Vice-President of the Union and who had played false to the Union just at the crucial time. "On the 27th October Mr. Yegnanarayana and Mr. Kalidass addressed the meeting and told us that to avoid a strike and to form a union" "No action was taken by the Company on the memo of grievances submitted by Union" "Further representations were made—the Company took no notice of our resolutions"... "We formulated no definite plan before 8th February". "Copies of all resolutions were sent to Government and we were hoping that something would be done by the Government". This affords the clearest proof that the Union is always peaceful in its attitude, that they did not contemplate a strike and that lock-out was forced on the Union by the management of the Company with a view to crush the Union.

As regards the responsibility of the President of the Union, Mr. Yegnanarayana, the major portion of the report is a piece of special pleading for finding him guilty. Every one of the statements of facts relating to

the part he played in this connection is a misstatement or an assumption. The report starts by suggesting that he was manufacturing grievances from time to time. This is not a fact. The report suggests that the conditions of the Labour were satisfactory and the demands were unreasonable. These are bare assumptions based on no investigation and were outside the scope of the enquiry. The report insinuates that the President was feeding the workers on false hopes by giving them exaggerated notions of his own importance and his influence with the Congress Ministry. Justice Horwill forgets that the Presidentship of the Union was not of Mr. Yegnanarayana's seeking but that it was thrust on him by the Labourers. Justice Horwill refers in this connection to some testimonials sent by the Union to the Company and gratuitously assumes that they were personal testimonials of Mr. Yegnanarayana, while, in fact, they are the testimonials of the Union and its work. The report goes out of its way and enters into a disquisition on the disadvantage of having an outside President and assumes without enquiry that Mr. Yegnanarayana had not qualified himself for the responsibility he has undertaken in becoming the President of the Union.

With reference to the events from 5th to 14th of February, Mr. Yegnanarayana was particularly anxious to avoid a conflict and to bring about a peaceful settlement. This is amply borne out by all the letters and the telegrams which he was sending to the authorities from time to time and from the fact that he was constantly putting himself into touch with the Joint Magistrate and District Magistrate and was pressing upon them to bring about a settlement. As the report itself says: "apparently Mr. Yegnanarayana was willing for the men to return to work unconditionally". It was the management which thwarted the peaceful attempts of Mr. Yegnanarayana by obstinately persisting in an illegal lock-out for crushing the Union.

With reference to events of 13th and 14th February the report grossly misrepresents Mr. Yegnanarayana's movements. When Mr. Giri left Chirala on the night of the 13th, Mr. Yegnanarayana had naturally to

ascertain Mr. Giri's advice about the situation and had therefore naturally to follow Mr. Giri upto Guntur for the purpose. The report refers to this as: "Mr. Yegnanarayana rushed away". The report also says "there was nobody to console the workers". This is contrary to the facts. In the first place the idea of disappointment caused by the Hon'ble Mr. Giri's visit is highly overdrawn and almost insinuates that it was the incapacity of Mr. Giri to handle the situation that brought about subsequent trouble. In the second place it is not a fact that nobody remained to console the workers. The Vice-Presidents, Secretaries, and all other important members of the committee of the Union were there and keeping themselves in touch with the men and giving them advice and guidance. The report goes on to say that on the 14th morning, Mr. Yegnanarayana addressed the workers and told that the "Chief Minister would transfer all the officers of the Company and that they need not be apprehensive." No fool in his senses would have said that the Minister had any power over the officers of the Company and Mr. Yegnanarayana was not a baby to have said anything so absurd. The report further says that after addressing the meeting in the morning, Mr. Yegnanarayana "disappeared". Justice Horwill has assumed this disappearance without any proof or investigation of the facts. Mr. Yegnanarayana had advised the workers "not to go to the factory" and exhorted them to be peaceful, and the men had agreed to do so. They had disciplined and united for the previous 5 days and there was no reason to think that there was any change in the minds of the workers. There was absolutely no reason to anticipate any trouble as stated by the Joint Magistrate both in the first information report as well as in his deposition. It is abundantly clear that it is the misleading rumour circulated by Mr. Ramakrishna Iyer the Head clerk, that was really responsible for drawing a crowd to the factory gates. If Mr. Yegnanarayana having advised the workers not to go to the factory i.e. not to go near the factory had presented himself at the factory gates contrary to instruction, that would in itself have brought a big crowd close on his heels. Mr. Yegnanarayana did the right

thing when, having no anticipation of any trouble he kept himself in and about the Union premises attending to the distribution of relief by way of rice, doles to the labourers and carrying on negotiations for settlement and engaging himself in such other ways. The report says that Mr. Yegnanarayana "fanned the fire and left it to burn what and how it might". This is a gross perversion and misrepresentation of the facts. Mr. Yegnanarayana's anxiety to avoid the strike is conceded in the report itself and it is clear from the various letters and telegrams he had sent to the authorities almost from hour to hour. It is incomprehensible, the more, how there could be any suggestion of "fanning the fire". The Company generated the fire and attempted to extinguish the fire once and for all. The report goes on asserting that if the men had a leader on the fateful day the tragedy would have been averted. It is not given to any leader to anticipate the treachery of his own Vice-President or the dishonest tactics of the company in seducing the Vice-President for bringing about a conflict to get an opportunity for smashing the men.

The entire sequence of events very clearly shows that the management of the Company was on the war-path. Admittedly this was the only Union the Company has to face in respect of the various factories which they had throughout India and it was a Union with a strong and numerous following. The men had learnt to realise their down-trodden condition and had learnt to present their demands in a disciplined and fearless manner. The Company began to realise that it was the formation of the Union that put courage into the men and were anxious to prevent its growth. They would not recognise the union, nor pay any heed to its representations. They put on a conciliatory appearance in the beginning, but finding the Union growing strong had decided to crush the Union and were shifting their ground from time to time. Admittedly their busiest month was the month of March and they were anxious to teach a crushing lesson to the men and to break up the Union before that time in order that they may be able to drive the men to their full work during the month of March.

The Judge has shut his eyes to the responsibility of the Executive and the Police for bringing about the situation prior to the 14th. In spite of repeated representations and intimations almost from day to day, neither the Government nor the local officials made any attempts to watch the situation or bring about a settlement. They ignored all intimations just as the Company did. The Company was at least interested in ignoring. The Executive had a responsibility which they woefully failed to discharge in time. When actually the Executive and the police presented themselves on the scene they gave all the impression and the appearance of interfering on behalf of the management. Whether this was deliberate or unconscious, Mr. Rutherford happens to be on the scene just at the psychological time and being aware of the illegal lock-out does not move his little finger to bring about a settlement, but on the other hand sends for a Reserve Police. The District Magistrate and the Joint Magistrate merely keep looking on almost helpless. And the Government to whom representations had been made did not feel concerned over it. It is very extraordinary that while it is clear that the management of the Company had provoked the situation and the Executive failed to handle the the situation properly and in time, the responsibility is thrown on the Union and its President who did all that they possibly could in the circumstances.

It is obvious that in a situation of this kind the intervention of the police at the earlier stages can only mean only one thing or at least give rise to only one impression viz., that the hands of the management were strengthened as against the workers. The Official evidence was given to the effect that the Reserve Police was stationed at Bapatla for any emergency and that it came over by mistake to Chirala. It is extraordinary that such a mistake should have happened and remained unrectified. This curious evidence that in the forenoon of the 14th of February, the Dy. S. P. and the Joint Magistrate go out of their way between 12 and 1 P. M. to the Head clerk, Mr. Ramakrishna Iyer who is clearly the villain of the piece. This curious coincidence again is equally suggestive. It is impossible to

acquit the police and the Magistrasy of complicity for bringing about the situation of the 14th afternoon without further impartial scrutiny of their actions by an unbiassed tribunal.

In the Report while the Judge was anxious to condemn the Union and its President, he is blind to the responsibility of the Company for bringing about the situation. Even according to the Report the management was not justified in not recognising the Union, but the Judge did not pause to consider how much of the later trouble was due to the un-reasonable and obstinate attitude of the company. The management had illegally declared a lock-out, but on the other hand assumes that the Labourers have brought a strike. The management flouted the advice of the Minister for Labour and Industries, but the Judge does not care to see that the insistence on the retention of the black-leg Labour is opposed to all notions of fairness as understood in the Labour Code. The Judge merely does not see the faults of the Company, but sees the actions of the Union and its President with perverted and coloured glasses, The report contains so many mis-statements and perversion of facts and assumptions outside the record that it would be tedious to enumerate them.

OPINION OF

V. RAMADAS PANTHULU GARU

The events of the 14th February which led to the shooting have not been stated correctly either in the report of Mr. Justice Horwill or in the order of the Government thereon. Mr. Horwill's one attempt has all along been to show that the cessation of work by the workers between the 8th and 14th February was a sort of a strike not justified by the treatment given by the Tobacco Company to the workers, but the outcome of an attempt since the beginning of January to force the hands of the company to yield to the demand of the workers. If only Mr. Justice Horwill referred to the contents of the letters, addressed to the Head Office of the company by the Union on the 22nd January and the letters, telegrams and other communications addressed to the Chief Minister and the Minister for Labour of the Government of Madras, it would have been clear to him that every attempt was made by the Union to effect a conciliation and to keep strictly within the limits of a constitutional, peaceful and loyal agitation for just rights. Every line of Mr. Horwill's report breathes with sentiments which go to show up the company in a favourable light and to show up the workers in an unfavourable light. In fact, after some of the demands presented to the company by the workers on the 27th October 1937 have been partly adjusted and a final memorandum was presented on the 12th November 1937, no further demands were put forward and the statement that demands were progressively made till January is a clear mis-statement not borne out by any evidence on record. What occurred on 18th February 1938 was a virtual lock-out of the workers. The statement that stemmers could not be taken in because the carpentry department did not turn out sufficient number of casks for packing is merely begging the question. Why did the workers in the Carpentry department fail to turnout adequate amount

of work on the 7th and previous days? That question, Mr. Horwill does not even put to himself. The company did its best to victimise the workers by a sudden lock-out without due notice and on the 8th instant, the company dismissed two of the workers and later on tried to induce some of the workers to break away from the Union. Mr. Justice Horwill says that on the 10th 46 men returned to work, on the 11th 85 men and on the 12th 189. This attempt to induce some of them to join work is opposed to the best traditions of employers in dealing with trades disputes and trade-unionism. To secure black-leg work is utterly indefensible from any standard of labour code. Mr. Justice Horwill does not say a word as to how this attempt on the part of the Company was justified,

In regard to the events that preceded and followed the visit of the Hon'ble the Labour Minister, the Hon'ble Mr. Horwill has drawn more on his imagination than deriving his facts from evidence. The fact however remains that the employers did not accept the advice given by the Hon'ble Minister for Labour, while according to Mr. Justice Horwill the workers were willing to return to work on any reasonable terms that the Minister might suggest. So the obstacle for settlement came from the employers and not from the employees even on the facts stated by Mr. Horwill. The statement of Mr. Horwill that Mr. Carleston and Mr. Yagnanarayana interviewed the Management just before the Labour Minister came is not correct in so far as Mr. Yagnarayana is concerned. He did not approach the management at that stage. The statement of Mr. Horwill that nobody remained to condole the workers after the Labour Minister had gone is also not correct. Immediately after the Minister departed on the 13th night, there was a meeting of the workers which was addressed both by the Vice-President and the workers of the Union. On the morning of the 14th, another meeting of the workers was addressed this time by the President as well, and everything went off peacefully. The workers departed and received their usual dole. Neither Mr. Horwill nor any of the official witnesses say what has happened between them and the

collection of a number of workers at the factory gates at about 1-30 P. M. on that day. The case for the workers is plain and straightforward. They went there on the representations of the head clerk, Mr. Ramakrishnan who is also the Vice-President of the Union. Mr. Horwill says as follows: "Various witnesses, stated that he (head clerk) sent round messages to the effect that an agreement had been effected between the Union and the factory." There is the further fact that the Deputy Superintendent of Police and Mr. Carleston visited the head clerk at his house between 12 noon and 1 P. M. on that day, and evidently were helping the head clerk to send those men to the factory. It is impossible to comprehend Mr. Horwill's finding in this connection to the following effect: "I am satisfied that the statement of the head clerk did not materially affect the situation." Does he mean that the workers reported to their work without being in any way influenced by the advice given by the head clerk or the company officers or the police officials? What is the basis of such a finding when he himself says that various witnesses had deposed to the contrary?

From the facts stated above which are in strict conformity to the evidence on record, it would be clear that the theory started by the police witnesses that there were two antagonistic crowds at the factory gates on the afternoon of the 14th, that one section was engaged in preventing the other from entering the factory, cannot be correct. Even the facts stated by Mr. Horwill in his report do not lend any support to such a theory. Again we are not told which section became aggressive and antagonistic to the police. Was it the whole crowd that attempted to attack the police or was it that portion of the crowd that prevented the workers from getting in?

Apart from asserting that there were two sections of the crowd, there was no attempt in the evidence of any witness to differentiate between them and what happened afterwards. If the evidence of the official witness is to be believed, it reads as if both the antagonistic sections became reconciled - we do not know at what stage; and co-operated in attacking the police. This is

simply an incredible and most improbable story. There seems to have been a sort of see-saw game between the police and the so-called rioters. We are told in all seriousness that thrice they were driven back from the factory gates to distances of 60 yards, 80 yards and 100 to 150 yards without anything untoward happening though the lathi charge has been severe as can be seen from the medical certificates that one of the injured had his bone fractured. Neither the first information report nor the evidence of Mr. Carleston gives any details as to the time and place of the first and second firings or other materials to enable us to judge at what distance from the factory the actual firing took place. But from the general trend of evidence adduced by the police in justification of their conduct, it is made to appear that after the crowd was driven away from the factory as far as the house of Perala, which means a distance of about $3\frac{1}{2}$ to 4 furlongs from the factory, firing was resorted to, the first firing being done on the orders of the police Circle Inspector without the concurrence of the Magistrate and the second firing which followed a minute or two later on the order of the Joint Magistrate.

With regard to the alleged fear of the police that they will be overwhelmed and outflanked by the crowd, let us see what has happened actually. Not a single policeman had any wound inflicted on him. That is what Mr. Ramachandra Sastri who gave the medical certificates, says. There were no wounds inflicted.

All the injuries were aberrations and contusions. Most of the men had one injury. Some had two. One or two had three. This medical evidence is enough to show that the fear of dangers underlying at the hands of the so-called rioters is a myth and merely raised to justify the otherwise wholly unjustifiable act of shooting. If a crowd of three to six thousand people were really indulging in throwing stones of about three inches "across" and all other kinds of missiles, it is impossible to believe that the policemen who were so attacked would have no more than aberrations and contusions. The Doctor says that the ranging of firing would be about fifty yards. This is perhaps the first instance of such a crowd

of rioters indulging in the harmless stone-throwing against an armed police, fifteen of whom had guns and fifteen lathies. The whole thing looks on its face an unreal story. The difficulties of the workers to get evidence were by no means small. Mr. Horwill in trying to exculpate the head clerk and attributing to Mr. Samson a motive not to speak the truth said that they had to live amicably with the workers thereafter, and so would not be expected to depose against them. Cannot this be applied with much greater force to those who have come forward to depose against the officers of the all-powerful Tobacco Company backed by officialdom—police and magistracy. There was no attempt in Mr. Justice Horwill's report to canvass the actual evidence on record about the incidents that preceded the firing and the evidence relating to actual firing. The Government, judging from the way in which they have dealt with this part of the case, evidently felt that they were not on any firm ground in upholding the Report of Mr. Horwill in this regard. They resorted very freely to certain assumptions regarding what might or might not have been the actual conduct of a crowd in such a case, instead of testing the evidence of the police in regard to the behaviour of a crowd in the light of the actual evidence on record.

The presumption of the Government that some of the members of the crowd who were shot might have turned back and might thereafter have been shot on the back is a gratuitous assumption and does not improve the case of the workers, though the firing was not against an advancing and aggressive crowd, but on a peaceful, retiring and non-aggressive crowd. There is a great deal of artificiality about Mr. Carleston's report and the police evidence about the probable danger to life and property of the European officers who were in occupation of the bungalows and their families. This is nothing but an embellishment intended to create an impression that but for the firing, something very untowards might have happened and to create a sort of panicky sensation among the readers of the Report. Mr. Boatfield's statement shows that no danger was apprehended to the inmates of the bungalows. If the crowd had any intention of molesting the inmates of the bungalows, it

is inexplicable why they showed no inclination to turn in that direction. An impartial scrutiny of the evidence is all that we desire. We are confident that an unbiassed examination by a tribunal whose members are not obsessed by any notions of prestige of a European concern which is the dominating interest in trades disputes, will result in the vindication of truth and justice. We are as anxious as anybody else for the preservation of peace, maintenance of law and order and the promotion of harmonious relations between employers and employees. But such incidents of shooting the employees and white-washing the conduct of the offenders by unsatisfactory enquiries and hasty Government Orders thereon, far from improving the relations of employers and employees, will have an adverse effect and will shake public confidence in the ability of the Government to bring about a concord between Capital and Labour in this province.

Reading the whole report and the Government Order together, it appears that the whole matter was dealt with in a spirit that if blame is to be thrown on any body it must not be on the shoulders of those who can assert themselves. In the case of the children who fell from the summit of a hill and died after some altercation there, a verdict had to be recorded as to who was to blame, in the matter. The guilt was eventually fixed on the father for his softness in allowing the children to get up the hill and on the hill for its failure to afford protection to the dying children.

It is not necessary at this stage to go more fully into the case and to subject the Report and the Government Order thereon to a more critical and detailed examination, because the Provincial Conference by its resolution passed at Tungabadhra has taken notice of the matter and proposes to submit the case to an impartial tribunal for further investigation and in that connection will draw up a detailed memorandum.

Coming to what actually led to the death of three people by shooting, the facts are these :—

The Police Circle Inspector, Narayana Rao, ordered one firing and the second firing was ordered by the Joint Magistrate, Mr. Carleston. The evidence of the Circle Inspector and other official witnesses goes to show that one man was shot in the abdomen and the other at the wrist. The name of the man who is said to have been shot in the abdomen is one Kotayya. He was sent to the Guntur Hospital where he died on the morning of the 16th. Mr. Horwill says "admittedly another (Kotayya) was shot in the abdomen, the shot coming out through his back". He does not say who has admitted that fact. The case of the workers is that this man came to take away his wife who was one of the workers, and the man himself was not a worker. The woman said that her husband came to take her away and was following her from behind. The implication clearly is that he was shot from behind. The Doctor of Guntur who conducted the post-mortem examination, Mr. A. J. John, deposed as follows before Mr. Horwill: "He (Kotayya) had a wound in the front and behind, the former having been sutured. This was enlarged in order that the gut might be sutured. The wound in the back might have been the exit wound, as it was large enough and somewhat ragged; but I cannot be sure that it was. I am not even sure that it was a gun-shot wound." Dr. Ramachandra Sastri of Chirala referred to the two men who were shot in the first firing ordered by the Circle Inspector and deposed as follows before Mr. Justice Horwill: "Of the two men injured by gun-shot, I kept one and he is improving. The other man I sent to Guntur and he subsequently died. The former was shot in the wrist and the other through the abdomen and back." The person referred to was Kotayya. This is all the evidence on the point. There is thus clearly no admission that the man was shot from the front, but on the other hand there was the assertion and suggestion that he was shot from behind. How the judge could say that there was an admission that the man was shot from the front, it is impossible to understand. This one statement ought to be sufficient ground for the

Government not to accept the report without an independent scrutiny. The order passed by the Government does not show that there was any scrutiny of the evidence on record upon which Mr. Horwill based his finding. The wound of the man who was injured in the wrist does not call for any comment. So far for the first firing.

The second firing was ordered by the Joint Magistrate. But why the Joint Magistrate's order was not obtained for the first firing and why the Circle Inspector took the responsibility of ordering firing without the Magistrate's consent is not explained. All that the Circle Inspector says is that he called aloud for the Magistrate and as no response was forthcoming immediately he issued orders for firing himself. A minute or two later, the Joint Magistrate was available, and himself gave orders for another firing. In this second firing two men, Sriramulu and Raja Rao, were shot and may be said to have died on the spot. It is said that they fell down and were removed to the factory and expired almost immediately. One of them had a gun shot wound on the forehead. While the case for the workers is that he was shot from behind and the wound entering from the back of the head came out of the front, the official case was that the bullet entered the head through the front and was lodged in the head and did not come out at all. This case is in conflict with the contents of the inquest report and the evidence for the workers. Mr. Horwill disposed of the data which are in conflict with the post-mortem certificate in a most extraordinary manner. He admits that there is an entry in the inquest report, that there was an injury behind the head of the deceased caused by gun shot, and proceeds to say, "but the so called injury from behind might not have been anything more than a clot of blood." When there was a clear recital in a document like the inquest report which was drawn up in the presence of panchayatdars who had not merely an opportunity to examine the nature of the wounds found on the body of the deceased, but whose statutory duty it was to make a faithful record of what was observed at the inquest, it was certainly not open to a Judge, without independent evi-

dence to the contrary, to dispose off the recital in the inquest report in the manner in which Mr. Horwill did. Such a statement in the judgment of a trying Magistrate would be rejected by any appellate court without hesitation, and why the Government did not do so, it is impossible to understand. Mr. Horwill's further remarks in this connection even are very surprising. He clearly saw the discrepancy between the post-mortem certificate and the inquest report in regard to the existence of a wound at the back of the head. As a judge he was asked to report upon the incident, it was clearly his duty to have asked Mr. Ramachandra Sastri what he had to say about the recital in the inquest report with regard to the injury on the back of the head about which no mention was made in the post-mortem certificate. It was an obvious failure on the part of an enquiring officer. The remark of the Judge that it was somebody else's duty to draw the attention of Mr. Ramachandra Sastri to the inquest report is simply ununderstandable. The judge could not have been unaware of the importance of drawing the attention of Mr. Ramachandra Sastri to this important matter, for he himself says such evidence is important because it affects the credibility of the evidence of Mr. Ramachandra Sastri on the other points of his evidence. Mr. Ramachandra Sastri stands or falls by his ability or otherwise to explain away the recital in the inquest report. Two respectable witnesses for the workers, Mr. V. V. Punniiah, M. L. C. and Dr. Chalapati Rao, a leading medical practitioner of Guntur, have asserted that Dr. Ramachandra Sastri admitted to them that two men shot dead on the 14th, Raja Rao and Sriramulu, had been shot from behind. It was all the more incumbent on the judge's part to test the veracity of Dr. Ramachandra Sastri by confronting him with the inquest report. The inquest report and the evidence of Messrs. Punniiah and Chalapati Rao are entitled to much greater weight than the silence of the post-mortem certificate about the wound on the back and the avoidance of eliciting anything on that matter from Dr. Ramachandra Sastri. The evidence of Messrs. Chalapati Rao and Punniiah receives further support from the evidence of Dr. Samson who also said that he noticed two wounds, one at the back

and one in the front. Mr. Horwill's attempt to criticise Dr. Chalapati Rao's evidence in regard to the character of entry and exit wounds caused by gun-shot in the absence of even any confession is wholly beside the point, when the official evidence does not admit of evidence of a wound at the back. Junstice Horwill's further remark that the so-called injury behind the head may not have been any thing more than a clot of blood is like the famous defence of the Irish solicitor who said that the bucket was never borrowed at all, and that it had a hole when it was borrowed, in a suit for damages for securing bucket with a hole in it

APPENDIX.

I. Resolution No. 12 of The Andhra Provincial Congress Working Committee, dated Masulipatam 10, 11-4-38.

This Committee is of opinion that the enquiry conducted by Mr. Justice Herwill into the Chirala shooting incident on the 14th of February, 1938, is unsatisfactory, incomplete and one-sided for the following reasons:—

The witnesses for the police were not allowed to be cross-examined by the enquiry officer.

The veracity of the certificates granted by the Doctor of the Government Hospital, Chirala, relating to the bullet wounds, having been challenged by the irrebuttable evidence of respectable witnesses examined by the enquiry officer, inquest report ought to have been called up and brought on record and the persons who conducted the inquest must have been examined.

Having regard to the terror-stricken state of the workers due to the arrests and the stationing and parading of the Police in large numbers, the workers had not sufficient opportunities to bring in all their witnesses. Even amongst those who had come forward to give evidence important witnesses were not examined by the enquiry officer. One day allotted for this examination is quite inadequate. The recording of notes of evidence by the Judge is not satisfactory as many important points which ought to find a place in the evidence are missing. Leading questions were put by the enquiry officer to the witnesses on behalf of the police and the summoning of Mr. Carleston, the Sub-divisional Magistrate at the last moment, after, Dr. Samson's evidence was over was obviously to get contradictions from him of the embarrassing statements made by Dr. Samson, as a court witness.

Therefore, this Committee requests the Government that a non-official Committee commanding the confidence of the public may be appointed by Govern-

ment to enquire and report regarding the shooting incident at Chirala on the 14th of Feb. 1938, and in the meantime withdraw the prosecutions against labourers and others pending.

II Resolution No 33 of the Andhra Provincial Conference held at Tungabhadra on 26-4-38 and the subsequent days.

1. The Provincial Congress Committee having carefully read the report of the Hon'ble Justice Mr. Horwill, the order passed by the Government of Madras thereon and the representations made both to Mr. Horwill and to the Government of Madras in regard to the conduct of the enquiry and to the denial of adequate facilities for the Workers' Union to represent the case of the workers, is of opinion that, firstly, in the interests of justice and administration and law and order in the Province, secondly in view of the reasons and the defects categorically pointed out hereinbelow, and thirdly considering the deep and general disappointment created in the public by the Government Order, it is necessary to examine the matter still further.

2. Therefore, this conference resolves that a copy of this resolution together with the memorandum relating to the evidence be sent to the Parliamentary Subcommittee and the Working Committee of the A. I. C. C. and that these committees appoint an Independent Committee of Enquiry and order such other enquiry as they may deem fit.

3 This conference requests the Government to help the sufferers at least on the following lines as minimum help.

i. Adequate compensation to the families of those that received wounds or died as a result of gun-shots.

ii. Withdrawal by the Government of Cases pending in the Court against the labourers.

4, The Conference congratulates the public on the sense of restraint exhibited by them on the matter so far, in the press and elsewhere.

5. DEFECTS AND REASONS.

(1) Facilities for the cross examination of the witnesses by the counsel for the Workers' Union was severely restricted.

(2) The mass of the documentary evidence produced by the Workers' Union has been practically ignored by the Judge.

(3) Some witnesses cited by the Workers' Union and who were prepared to give evidence were not examined.

(4) The undue haste with which the Judge wanted to finish the enquiry.

(5) The arrests and other acts of the Police which created an atmosphere uncongenial to a judicial and impartial enquiry. For, after all, the workers of the locality have to live and work under the authorities of the factory who are being powerfully backed by the higher authorities.

(6) The medical and other evidence which was adduced to prove that the Police fired on a retreating crowd from behind and not on the advancing crowd from front has not been properly dealt with by the Judge and has been virtually ignored by the Government.

(7) The Judge's remark that the wound on the back of the skull of one of the deceased "might be a clot of blood" and the surmise of the Government that the two people who were fatally wounded might have turned back when the Police actually fired.

(8) The gratuitous treatment accorded to the evidence is anything but judicial.

(9) The first report of Mr. Carlestone when read shows that the menacing crowd far from being an advancing and resisting one was willing to be driven back not less than three times to a distance of 150 yards up to the houses in Perala away from the factory and when they

did come back to the original position they did not indulge in any acts of violence.

(10) The evidence of throwing stones was tested in the light of the statement made by the District Magistrate to the effect that he found the place glutted with stones when he visited the scene next morning. The evidence is wholly inadmissible in any judicial enquiry specially in regard to the fact that the whole place is full of stones which are said to have been found there.

(11) The Government has not taken due notice of the representations made by Desabbakta Konda Venkatappayya and other responsible men in connection with the perfunctory nature of the enquiry and the absence of reasonable facilities for the workers to put their case before the Judge.

(12) The way in which Dr. Ramachandra Rao's evidence is interpreted is not correct.

(13) The theory that the crowd which gathered at the factory gates on the afternoon of the 14th consisted of 2 sections-one desiring to enter the factory to resume work and the other section intent upon preventing the former from going into the factory - is utterly unfounded.

(14) The actual place of firing should be located.

(15) The re-calling of Mr. Carleston by Justice Horwill to oppose certain points in the evidence of Dr. Samson and the way he spurned the evidence of Dr. Samson.

(16) Non-transfer of officers involved in the Chirala firing incidents, during trial.

(17) The variations between the readings of evidence-statements as reported in the Dailies and as taken down by the Justice.

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